



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

BEFORE DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1615 & 1840/PUN/2025

निर्धारण वर्ष / Assessment Year: 2016-17

Archana Bhandwalkar, S.No.31, House No.681/4, Pune Satara Road, Gaurav Apt, Dhanakwadi, Pune – 411043.	Muralidhar	V s	The Income Tax Officer, Ward-5(2), Pune.
PAN: AUCPB7036M			
Appellant/ Assessee			Respondent / Revenue

Assessee by	Smt. Deepa Khare
Revenue by	Shri Ambarnath Khule-JCIT(Through Virtual Hearing)
Date of hearing	26/11/2025
Date of pronouncement	28/11/2025

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

These two appeals filed by the Assessee against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC] passed under section 250 of the Income Tax Act, 1961 for the A.Y.2016-17 dated 28.05.2025 and 14.07.2025 emanating from the Assessment Order passed under section 147 of the Act, dated 23.03.2023 and Penalty Order under section 271(1)(c)of the Income Tax Act, dated 19.09.2023.For the sake of convenience, these two appeals were



heard together and are being disposed of by this common order. We treat the appeal in ITA No.1615/PUN/2025 as lead case. The

Assessee has raised the following grounds of appeal :

*“1. The impugned notice u/s 148 dated 14.07.2022 is invalid and bad in law being issued by the Jurisdictional Assessing Officer as the same was not in accordance with Section 151A of the Act.*

*2. The Id CIT(A) erred in law and on facts in confirming addition of Rs.5,57,760/- under section 56(2)(vii)(b) being deemed income on the ground that agreement value is less than the stamp duty value. The addition so made be deleted. The appellant be granted just and proper relief.*

*3. The Id CIT(A) failed to appreciate that the Rs.5,57,760/- did not represent deemed income being the transaction covered by the provision to section 56(2)(vii)(b) and between the two real sisters (relatives). The addition so made be deleted. The appellant be granted just and proper relief.*

*4. The Id CIT(A) erred in law and on facts in confirming addition of Rs.21,50,000 us 69A as unexplained money u/s 69A when source for purchase of property was explained being Rs. 18 lakhs representing loan taken from the financial institution and Rs. 3.50 from internal saving over the period. The addition so made be deleted The appellant be granted just and proper relief.*

*5. The appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing.”*

**Additional Ground :**

*“Whether impugned Assessment Order us. 147 are time barred in view of the provisions of Section 149 as the notice us 148 r.w.s 148A are issued beyond three years from the relevant assessment year in respect of income alleged to be escaped which is not more than 50 lakhs.*

*The above ground is purely legal in nature and it is requested that the same may be allowed to be raised and decided on merits.”*



**Submission of ld.AR :**

2. Ld.AR for the Assessee filed copy of order u/s.148A(d) of the Act, for A.Y.2016-17 dated 14.07.2022. Ld.AR submitted that it is admitted in the said order that income escaped assessment is Rs.27,07,760/- only. Ld.AR submitted that the income escaping assessment is less than Rs.50 lakhs and Assessment Year involved is 2016-17. The notice u/s.148 of the Act, was issued on 14.07.2022 i.e.after a lapse of three years from the end of assessment year. Ld.AR submitted that as per section 149 of the Act, after a lapse of three years, no notice can be issued if income escaping assessment is less than Rs.50 lakhs.

3. Ld.AR submitted that the notice is approved by Pr.CIT, as per Section 151 notice should have been approved by Principal Chief Commissioner of Income after a lapse of three years.

**Submission of ld.DR :**

4. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of Assessing Officer and ld.CIT(A).

**Findings & Analysis :**

5. We have heard both the parties and perused the records. In this case, Assessment Order has been passed under section 147 r.w.s



144B of the Income Tax Act, for A.Y.2016-17 on 23.03.2023. It is mentioned in the assessment order that notice u/s.148 was issued on 14.07.2022. We have perused the order u/s.148A(d) of the Act, dated 14.07.2022 for A.Y.2016-17 in the case of Assessee. The relevant paragraph no.6 and 7 of the impugned order u/s.148A(d) are reproduced here as under :

*“06. In view of the above facts, the information in my possession as mentioned above suggests that the income chargeable to tax of Rs.27,07,760/-, which is less than Rs.50 lakhs, and represented in the form of asset has escaped the assessment. Therefore this is a fit case for issue of notice u/s 148.*

*07. This order is passed with prior approval of Pr.CIT-3, Pune.”*

5.1 Thus, it can be observed that as per order u/s.148A(d), the income escaping assessment is Rs.27,07,760/- only which is less than Rs.50 lakhs. The Section 149 of the Act as amended w.e.f 01.04.2021 is reproduced here as under :

*“[Time limit for notice.*

*149. (1) No notice under [section 148](#) shall be issued for the relevant assessment year,—*

*(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);*

*<sup>5</sup>[(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—*

*(i) an asset;*



(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]”

5.2 Thus, it can be observed that the notice u/s.148 of the Act, cannot be issued if three years have lapsed from the end of the assessment year and income escaping assessment is less than Rs.50 lakhs. In this case, admittedly, income escaping assessment is less than Rs.50 lakhs and notice u/s.148 dated 14.07.2022 for A.Y.2016-17 was issued after lapse of three years from the end of the assessment year. In this scenario, the notice u/s.148 is bad in law.

6. Section 151 of the Act as amended w.e.f 01.04.2021, is reproduced here as under:

***“[Sanction for issue of notice.***

***151. Specified authority for the purposes of [section 148](#) and [section 148A](#) shall be,—***

***(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;***

***(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.]”***

6.1 Thus, as per Section 151 of the Act, after a lapse of three years, approval from Principal Chief Commissioner of Income Tax or Chief Commissioner of Income Tax was required for issuing notice u/s.148 of the Act.



7. In this case, admittedly, order u/s.148A(d) has been approved by Pr.Commissioner of Income Tax-3, Pune.

8. The Hon'ble Madras High Court in the case of Core Logistic Company Vs. ACIT 175 taxmann.com 453(Madras) vide order dated 05.06.2025 has held as under :

*Quote “9. A perusal of Section 151(i) would show that, the specified authority for the purpose of issuing notice under Section 148 within a period of three years from the end of the relevant assessment year is, the Principal Commissioner or Principal Director or Commissioner or Director. Further, in terms of provision of Section 149, three year time period is fixed for issuance of 148 notice, in the event of the amount is below 50 lakhs. In the present case, the amount involved is Rs.3,65,09,748/-, which is more than 50 lakhs. 148 notice was issued on 25.07.2022, which is beyond the period of three years. So admittedly, the approval has to be obtained from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General as defined under Section 151(ii). But, in the present case, the approval was obtained from the Principal Commissioner in terms of Section 151(i) and no approval was obtained before issuance of 148 notice in terms of provision of Section 151(ii), which is mandatory. Therefore, the notice under Section 148 was issued in the present case in violation of provision of Section 151(ii) of the Income Tax Act. In view thereof, the initiation of proceedings itself is without any jurisdiction. Hence, the same is liable to be quashed.*

*10. Accordingly, the impugned proceedings of the 3rd respondent dated 30.05.2023 is hereby quashed.”Unquote.*



9. It is observed that Hon'ble Bombay High Court in the case of Vodafone Idea Limited Vs. DCIT in Writ Petition No.2768/2022 vide order dated 06.02.2024 has allowed assessee's appeal. The relevant paragraphs of the judgment are reproduced as under :

*"1. Petitioner is impugning a notice dated 19 March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order passed under Section 148A(d) of the Act and the notice both dated 7 April 2022 issued under Section 148 of the Act. One of the grounds raised is that the sanction to pass the order under Section 148A(d) of the Act and issuance of notice under Section 148 of the Act is invalid inasmuch as the sanction has been admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").*

*2. Petitioner's request for a copy of the sanction has also been denied. Even in the affidavit in reply, the Department is refusing to give the sanction which makes us wonder what is the national secret involved in that, that Assessee is being refused what he is rightfully entitled to receive from the Department. In the affidavit in reply, the stand taken by the Revenue is it will be made available during the re-assessment proceeding.*

*3. The impugned order and the impugned notice both dated 7th April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai 5. The matter pertains to Assessment Year ("AY") 2018-19 and since the impugned order as well as the notice are issued on 7th April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151 (ii) of the Act. The provisio to Section 151 has been inserted only with effect from 1" April 2023 and, therefore, shall not be applicable to the matter at hand.*

*4. In this circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., the sanction is invalid and consequently, the impugned order and impugned notice both dated 7th April 2022 under section 148A(d) and 148 of the Act are hereby quashed and set aside."*



10. Respectfully following the Hon'ble Bombay High Court and Hon'ble Madras High Court, we hold that the order u/s.148A(d) and notice u/s.148 are bad in law and hence quashed. Accordingly, the legal ground(additional ground) raised by the Assessee is allowed.

11. Since we have decided the legal ground(additional ground) in favour of Assessee, all other grounds become academic in nature and dismissed as unadjudicated.

12. In the result, appeal of the assessee is partly allowed.

**ITA No.1840/PUN/2025 – Penalty Appeal**

13. Appeal in ITA No.1840/PUN/2025 pertains to Penalty u/s.271(1)(c) for A.Y.2016-17. Since we have quashed the order u/s.148A(d) and notice u/s.148 for A.Y.2016-17, the penalty cannot be sustained. Hence, we direct the Assessing Officer to delete penalty.

14. Accordingly, this penalty appeal in ITA No.1840/PUN/2025 is allowed.

Order pronounced in the open Court on 28 November, 2025.

Sd/-  
**VINAY BHAMORE**  
**JUDICIAL MEMBER**

Sd/-  
**Dr.DIPAK P. RIPOTE**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 28 Nov, 2025/ SGR



**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.