

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T. R. Senthil Kumar, Judicial Member**

**ITA No: 691/Ahd/2025
Assessment Year: 2016-17**

Manishaben Dilip Vankar A/15, Vishvanath Township, Tulshidham, Zadeshwar Road, Bharuch, Narmada Nagar S.O (Bharuch), Bharuch, Vadodara Gujarat-392011 PAN: BOSPP7630G (Appellant)	Vs	The DCIT Circle-1(1)(1), Vadodara (Respondent)
--	----	--

Assessee Represented: Shri Ramakant Gupta, A.R.
Revenue Represented: Shri Rohit Aasudani, Sr. D.R.

Date of hearing : 12-11-2025
Date of pronouncement : 19-12-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 31.01.2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 147 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2016-17.

2. Brief facts of the case is that the assessee is an individual who has filed her Return of Income for the Asst. Year 2016-17 on 01-07-2016 showing total income of Rs.2,22,290/- and Current year loss of Rs.12,79,949/-. The return was processed u/s. 143(1) and no scrutiny assessment made. Information received from the "Insight Portal" of the department that the assessee has indulged in sham transaction in penny stock of the shares scrip namely M/s. Frontline Business Solutions Pvt. Ltd. to the tune of Rs.30,34,398/-. Therefore notice u/s. 148 was issued on 30-07-2022. In response the assessee filed replies, however the assessing officer completed the reassessment by making addition of Rs.31,55,767/- u/s. 68 of the Act and Rs.31,557/- u/s. 69C of the Act and demanded tax thereon.

3. Aggrieved against the reassessment order, assessee filed an appeal before Ld. CIT(A) who has confirmed the addition made by the assessing officer thereby dismissed the appeal filed by the assessee.

4. Aggrieved against the appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

1. Ground of Appeal No. 1 Section 148 r.w.s. 148A (d)

The assessee duly filed return of income for the assessment year 2016-17 on 01.07.2016 vide acknowledgement no. 228942770010716. The Ld. Assessing Officer issued order u/s 148A(d) and notice u/s 148 on 30.07.2022 i.e. after the expiry of three years from the end of relevant assessment year i.e. 31.03.2020. Therefore, the reassessment proceedings u/s 147 is invalid and deserves to be quashed in line with the retrospectively amended provisions of section 149 & 151 of The Income Tax Act, 1961 (with effect from 1st April, 2021).

The assessee has relied on the below-mentioned judgement in support of her contention:

In Civil Appeal No 8629 of 2024 (Union of India & Ors. Versus Rajeev Bansal)- The Supreme Court stated that:

In Ashish Agarwal (supra), this Court held that the benefit of the new regime i.e. (with effect from 1st April 2021) must be provided for the reassessment conducted for the past periods. The increase of the monetary threshold from Rupees one lakh to Rupees fifty lakh is beneficial for the assesses. Mr Venkataraman has also conceded on behalf of the Revenue that all notices issued under the new regime by invoking the six year time limit prescribed under Section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than Rupees fifty lakhs.

Section 149(1) of the new regime is not prospective. It also applies to past assessment years; (ii) The time limit of four years is now reduced to three years for all situations.

Thus, although TOLA did not amend Section 149 of the Income Tax Act, it has to be read with Section 149 to determine the time limit for issuance of a notice. TOLA extended the period for issuing notice until 30 June 2021, given the difficulties that arose because of the COVID-19 pandemic.

Therefore, in terms of Ashish Agarwal (supra), after 1 April 2021, the prior approval must be obtained from the appropriate authorities specified under Section 151 of the new regime. The effect of Section 151 of the new regime is thus: (i) If income escaping assessment is less than Rupees fifty lakhs: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) no notice could be issued after the expiry of three years.

In the Present case, the order u/s 148A(d) and notice u/s 148 were issued by the Assessing Officer on 30.07.2022 i.e. after three years from the end of relevant assessment year (A.Y. 2016-17) which is 31.03.2020 and the income addition is less than Rupees fifty lakhs, hence reassessment notice issued u/s 148A(d) and notice u/s. 148 is invalid as it is issued even beyond the extended time limit provided by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions Act) (TOLA) 2021) i.e. 30 June 2021.

Therefore, it is humbly submitted before Your Honour that the consequent re-assessment proceedings completed u/s 147 of the Act is void-ab-initio and bad in law which deserves to be quashed.

2. Ground of Appeal No. 2 Section 68 of the Income tax Act, 1961

The Learned Commissioner of Income Tax (Appeals) has erred in law and facts stating in order u/s 250 that the assessee has not tried to bring into light the source of such investment and thus the source of such amount has remained unexplained. Thus the addition of Rs.7,02,171/ out of addition of Rs.31,55,767/- made by the Ld. A.O is sustained. With respect to the sustained addition amounting Rs. 7,02,171, the hon'ble CIT(A) did not raise any specific query or request any further details in relation to the investment amount and sustained the addition amounting Rs. 7,02,171 without any valid basis. Therefore, the sustained addition amounting Rs. 7,02,171 is baseless and legally untenable and hence shall be deleted.

3. Ground of Appeal No. 3 (Other Points)

The Applicant craves leave to add or amend or modify the grounds of appeal.

5. At the outset, Ld. Counsel appearing for the assessee raised the jurisdiction to reopening of assessment. Ld. Counsel submitted that the reopening is beyond three years period and the sanction for reopening is obtained not from Competent Authority thereby the entire reassessment proceedings is liable to be vitiated and relied upon Bombay High Court Judgment in the case of M/s. Siemens Financial Services (P.) Ltd. vs. DCIT reported in 457 ITR 647 (Bom) and other case laws.

6. Per contra, Ld. Sr. D.R. appearing for the Revenue supported the orders passed by the Lower Authorities and requested to uphold the same.

7. We have given our thoughtful consideration and perused the materials available on record and first adjudicate the jurisdiction issue. As per the amended provision of section 149(1)(b) of the Act, effective from 01.04.2021 by the Finance Act, 2021, a notice u/s 148 can be issued beyond three years but within ten years only if the AO has in possession material indicating escapement of income represented in the form of asset exceeding Rs. 50 lakhs. In the present case, the AO has neither alleged nor established any such escapement of income above Rs. 50 lakhs but escaped income of Rs. 30,34,398/ only. Therefore, the issuance of notice is below the permissible amount under section 149 of the Act and is legally unsustainable.

7.1 Invalid sanction from incorrect authority u/s. 151(ii) of the Act. As the notice u/s 148 and order u/s 148A(d) were issued on 30.07.2022 which are well beyond three years from the end of the A.Y. 2016-17 (i.e. 31.03.2020). In such cases the sanction was mandatorily required from the Principal Chief Commissioner of Income Tax (PCCIT) or Chief Commissioner of Income Tax (CCIT) as per section 151(ii) of the Act. However, the AO obtained sanction only from the Principal Commissioner of Income Tax (PCIT), which is jurisdictionally defective.

7.2. On identical issue Bombay High Court in the case of M/s. Siemens Financial Services (P.) Ltd. vs. DCIT reported in 457 ITR 647 wherein it is held as follows:

“Hon’ble Bombay High Court in case of Siemens Financial Services (P.) Ltd. vs. DCIT- “Whether thus, TOLA only sought to extend period of limitation and would not affect scope of section 151 and sanction of specified authority was to be obtained in accordance with law existing when sanction was to be obtained Held, yes Whether since in instant case Assessing Officer issued reopening notice beyond period of three years and prior approval was taken from Principal Commissioner, Assessing Officer could not rely on provisions of TOLA and approval was required to be taken as per provisions of amended section 151 from Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General and thus, impugned order and notice were to be quashed.”

8. Respectfully following the above decision, the initiation of reassessment proceeding itself is invalid in law consequently the reassessment order passed by the Assessing Officer is invalid in law.

9. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 19 -12-2025

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad : Dated 19/12/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद