आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No.6346/Mum/2025
(Assessment Year: 2016-17)

Shri Dinesh Kumar Sanghai, 588, JB House, 2nd Floor, JSS Road, Chira Bazar, Mumbai-400002. **PAN: AANPS9087N**	Vs.	**ACIT, Circle-23(3),** Mum (W)(92)(197), Piramal Chamber, Dr. SS Rao Marg, Lalbaug, Parel, Mumbai-400012.
Assessee-अपीलार्थी / Appellant	:	**Revenue-** प्रत्यर्थी / Respondent

Assessee by	:	Mr. Shankarlal Jain, CA and Satish Jain, CA
Revenue by	:	Shri Annavaram Kosuri, Sr. DR
Date of Hearing	:	08.12.2025
Date of Pronouncement	:	11.12.2025

O R D E R

Per Arun Khodpia, AM:

The captioned appeal of the assessee has been emanated against the order of Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi (for short "ld. CIT(A)") dated 29.08.2025 for Assessment Year (AY) 2016-17, which in turn arises from the order of assessment Unit of Income Tax Department

(for short "ld. AO") under section 147 r.w.s. 144B of the Income Tax Act, 1961 (the Act) dated 25.05.2023. The grounds of appeal raised by the assessee are as under:

> *"1. Ld. CIT(A) erred in upholding validity of notice u/s 148 stating that AO has tangible material at its possession at the time of reopening of the assessment without considering that mere information' on 'Insight Portal' of the department as to search on 'Rajesh Investment' and having filled a settlement petition before 'Settlement Commission' offering to tax certain cash loans is not a tangible material.*
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> *2. Ld. CIT(A) failed to appreciate that notice u/s 148 being issued on 28-07-22 after lapse of 3 years from end of assessment year and alleged escaped income being Rs.35,00,000/- i.e. below Rs.50,00,000/- notice issued is beyond time permitted u/s 149 of the Act.*
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> *3. Ld. CIT(A) failed to appreciate that sanction u/s 151 being issued without regard to the facts of the case and without application of mind is bad in law.*
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> *4. Ld. CIT(A) erred in not considering that proceeding u/s 148 as initiated based on seized material No 21, seized during search in 2016 M/S Rajesh Investments were without jurisdiction as proceeding ought to have been initiated u/s 153C, hence an order u/s 147 is bad in law.*
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> *5. Ld. CIT(A) failed to consider that proceeding u/s 148 being conducted by JAO and not in faceless manner is bad in law.*
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> *6. Ld. CIT(A) erred in confirming finding of Ld. AO that the Appellant has admitted in his letter dated 01.01.2023 that he has given cash loan of Rs.35,00,000/- to the investment the fact that M/s. Rajesh without considering Appellant, never, admitted any cash loan advanced and in reply to 'Show Cause' Appellant stated that it never gave any cash loan.*
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> *7. Ld. CIT(A) erred in confirming addition u/s 69 of Rs.35,00,000/- alleged cash loan advanced to M/S RAJESH INVESTMENTS without appreciating that Ld. AO has not brought on record any evidence of appellant having advanced any such loan. Ld. CIT(A) ought to have considered that M/S RAJESH INVESTMENTS*

having offered said loan as its income in Settlement Petition confirm the fact that no loan was given by the Appellant.

8. Ld. CIT(A) failed to consider that a Settlement Petition filled or an order thereon cannot be basis for any addition in hands of the appellant u/s 69. Appellant was not a party to it.

9. Ld. CIT(A) failed to consider that a statement in alleged Settlement Petition filled by M/S RAJESH INVESTMENTS cannot be a basis of addition u/s 69 without Ld. AO, in assessment proceeding ascertaining said fact from M/S RAJESH INVESTMENTS based on proper evidence produced and Appellant being afforded opportunity to cross examine M/S RAJESH INVESTMENTS."

2. The brief facts of the case are that the re-assessment proceedings under section 147 of the Act have been initiated on the basis of information with the department that the assessee has given a cash loan of Rs. 35,00,000/- to M/s Rajesh Investments, however such loan was not shown in the Balance sheet of the assessee. The original return of income for the relevant year was filed by the assessee on 10.10.2016 declaring income of Rs. 2,44,40,560/-. Notice under section 148 of the Act was issued on 28.07.2022, in response to which the return was filed by the assessee on 16.08.2022 declaring the same income as was it in the original return. Further notices / communications, letter / SCNs along with questionnaire were issued to the assessee to furnish certain information / details about the cash loan granted by him to M/s Rajeev Investments to which the assessee has admitted in reply dated 21.01.2023 that the said loan was given by him and the interest income of the same was offered to tax in ROI, however the

loan granted was not shown as asset in balance-sheet. The aforesaid information was received by the AO from Investigating Wing of the Department as a search action in the case of different entities of Rajesh Life Group was carried out on 10.03.2016 and according to incriminating material surfaced during the said search, it was revealed that the assessee has given a cash loan of Rs. 35,00,000/- to M/s Rajesh Investments. Based on such details and information, the ld. AO made an addition of Rs. 35,00,000/- in the hands of assessee treating the same as investment under section 69 of the Act.

3. Aggrieved with the aforesaid addition, assessee preferred an appeal before the ld. CIT(A), however was unsuccessful as the findings of AO are confirmed and the addition have been sustained by dismissing the appeal of the assessee.

4. Being dissatisfied with the decision of Ld. CIT(A), assessee preferred the present appeal before us, which is under consideration.

5. At the outset, the ld. AR on behalf of the assessee submitted that the issuance of notice under section 148 in the present matter itself is not in accordance with the mandate law and therefore the assessment completed based on such invalid notice cannot sustained in the eyes of law. The ld. AR submitted that notice under section 148 was issued on 21.04.2021 and thereafter an order under

section 148A(d) was issued on 28.07.2022, which according to the decision of Hon'ble Apex Court in the case of **Union of India vs. Rajeev Bansal [469 ITR 46 (SC)]**, was to be issued as per the provisions of section 149(1)(b) under New Regime, being issued after 3years 3 months from the end of relevant assessment year and the income escaped assessment was less than Rs. 50,00,000/-.

6. Another contention raised by ld. AR that the approval/sanction under section 151 before issuance of the notice u/s 148 was also granted by an Authority who is not authorized to do so i.e. the approval was granted by Pr. CIT, whereas as per amended section 151 r.w.s. 148A(d), such approval was to be granted by Chief Commissioner of Income Tax or Principle Chief Commissioner as the case was reopened after Three years from the end of relevant AY. On this aspect, the ld. AR placed reliance on the following judgments:

- *Assistant Commissioner of Income Tax International Taxation v. LinkedIn Singapore Pte. Ltd. 180 taxmann.com 158 (SC).*
- *Aakruti Ketan Mehta v. National Faceless Assessment Centre, New Delhi 173 taxman.com 265 (Mumbai- Trib.)*

7. To factually substantiate that the amount of income escaped was less than Rs. 50,00,000/-, ld. AR drew our attention to the 1st paragraph of assessment order wherein the amount of income tax escaped was noted for Rs. 35,00,000/- only.

Further since the matter pertains to AY 2016-17 and the notice under section 148 was issued on 28.07.2022, where the process was initiated by issuance of notice under section 148 on 21.04.2021, in both the cases the period of three years three months was elapsed, further since the reassessment proceedings were initiated after 1st April 2021, therefore in terms of principle of law laid down by Hon'ble Apex Court in the case of **Rajeev Bansal (supra)** the provisions under new regime has to be followed. The relevant observations of Hon'ble Apex Court in the case of Rajeev Bansal (supra) are extracted herein for the sake of completeness:

> ***48.*** *Notices have to be judged according to the law existing on the date the notice is issued. Section 149 of the old regime primarily provided two time limits: (i) four years for all situations and (ii) beyond four years and within six years if the income chargeable to tax which escaped assessment amounted to Rupees one lakh or more. After 1 April 2021, the time limits prescribed under the new regime came into force. The ordinary time limit of four years was reduced to three years. Therefore, in all situations, reassessment notices could be issued under the new regime if not more than three years have elapsed from the end of the relevant assessment year. For example, for assessment year 2018-2019, the four year period would have expired on 31 March 2023 under the old regime. However, if the notice is issued after 1 April 2021, the three year time limit prescribed under the new regime will be applicable. The three year time limit will expire on 31 March 2022.*
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> ***49.*** *The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.*
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> ***50.*** *Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from Rupees one lakh to Rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than Rupees one lakh. In*

comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than Rupees fifty lakhs. This change could be summarized thus:

Regime	*Time limit*	*Income chargeable to tax which has escaped assessment*
Old regime	*Four years but not more than six years*	*Rupees one lakh or more*
New regime	*Three years but not more than ten years*	*Rupees fifty lakhs or more*

51. *Given Section 149(1)(b) of the new regime, reassessment notices could be issued after three years only if the income chargeable to tax which escaped assessment is more than Rupees fifty lakhs. The proviso to Section 149(1)(b) limits the retrospectivity of that provision with respect to the time limits specified under section 149(1)(b) of the old regime.*

52. *In Ashish Agarwal (supra), this Court held that the benefit of the new regime 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.*

53. *The position of law which can be derived based on the above discussion may be summarized thus: (i) 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. The Revenue can issue notices under section 148 of the new regime only if three years or less have elapsed from the end of the relevant assessment year; (iii) the proviso to Section 149(1)(b) of the new regime stipulates that the Revenue can issue reassessment notices for past assessment years only if the time limit survives according to Section 149(1)(b) of the old regime, that is, six years from the end of the relevant assessment year; and (iv) all notices issued invoking the time limit 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.*
ii. TOLA can extend the time limit till 31 June 2021

54. *The proviso to Section 149(1)(b) of the new regime uses the expression "beyond the time limit specified under the provisions of clause (b) of sub section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021." Thus, the proviso specifically refers to the time limits specified under section 149(1)(b) of the old regime. The Revenue accepts that without application of TOLA, the time limit for issuance of reassessment notices after 1 April 2021 expires for assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 in the following manner:*

(i) *for the assessment years 2013-2014 and 2014-2015, the six year period expires on 31 March 2020 and 31 March 2021 respectively; and*

(ii) for the assessment years 2016-2017 and 2017-2018, the three year period expires on 31 March 2020 and 31 March 2021 respectively.

a. Finance Act 2021 substituted the old regime

8. Regarding validity of approval under section 151, it is categorically held by Hon'ble Apex Court in the case of **Rajeev Bansal (supra)** that after introduction of new regime which has come into effect in 1st April 2021, the approval under section 151 should have been granted by the Sanctioning Authority specified under new regime which are different from those specified under the old regime, the relevant findings of the Hon'ble Court are as under:

75. After 1 April 2021, the new regime has specified different authorities for granting sanctions under section 151. The new regime is beneficial to the assessee because it specifies a higher level of authority for the grant of sanctions in comparison to the old regime. 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; and

(ii) If income escaping assessment is more 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) after three years after obtaining the prior approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.*

9. The aforesaid observations of Hon'ble Apex Court are further enlightened by Hon'ble Apex Court in the case of ACIT (IT) vs. Linked in Singapore Pte. Ltd. (supra), therefore, there is no ambiguity on the aspect that the approval should have been granted by the specified authorities according to the provisions of section 151 under new regime effective 01.04.2021, therefore in present case since the re-assessment was initiated after three years, thus as per new provisions of section 151 the approval was required to be granted by Principle Chief Commissioner / Chief Commissioner and not by the Pr. Commissioner Income Tax.

10. In backdrop of the aforesaid observations, we find substance in the contentions raised by ld. AR in the present matter that the re-assessment proceedings in the present matter are initiated after three years and three months, while the income escaped assessment was less than Rs. 50,00,000/-, therefore the

matter is squarely covered by the exception carved out in provisions of section 149(1)(b), according to which, "if three years and three months but not more than five years and three months have elapsed from the end of relevant AY, unless the AO has in his possession, books of accounts or other documents or evidence related to any asset or expenditure or transaction or entries which shown that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to Rs. 50,00,000/- or more", however, in the present matter since the income escaped was only Rs. 35,00,000/- which is less than below Rs. 50,00,000/-, therefore the re-assessment proceedings cannot be validly initiated and the jurisdiction assumed by the AO, would be against the mandate of law and invalid.

11. Further on the count of sanction under section 151 also the present matter falls within the ambit of new regime, thus according to the provisions of section 151(ii) the sanction was to be granted by Principal Chief Commissioner or Principal Chief Director or Chief Commissioner or Director General as the period of three years have elapsed from the end of the relevant AY.

12. In view of aforesaid facts and circumstances, Jurisprudence and the mandate of law, we are of the considered view that in the present case, the revenue has failed on both the counts that first the notice under section 148 was issued without adhering to the mandatory provisions of section 149 (1)(b) and again there was

violation of provisions of section 151(ii) while the sanction was granted by an authority, who was not having the powers conferred upon it to grant such sanction. We therefore do not agree with the findings of CIT(A) based on decision of Hon'ble Allahabad High Court in the case of **Rajeev Bansal & Ors. Vs. Union of India [2022] 143 taxmann.com 150),** which was subsequently deliberated upon by the Hon'ble Apex Court and have reversed the decision of Hon'ble Allahabad High Court, in conclusion the legal contentions raised by the ld. AR are found acceptable, therefore we are inclined to quash the assessment on the aforesaid grounds.

13. Since we have quashed the assessment on the legal aspect raised by the assessee for the want of valid assumption jurisdiction u/s 147/148, therefore we refrain ourselves to deal with any other grounds raised by the assessee on merits, the same therefore remain academic only.

14. In result, the appeal of assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 11-12-2025.

Sd/-	***Sd/-***
(AMIT SHUKLA)	**(ARUN KHODPIA)**
Judicial Member	**Accountant Member**

**SK, Sr. PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai