



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2324/PUN/2025
Assessment Year : 2017-18

Income Tax Officer, Dhule	Vs.	Santosh Jaynarayan Sharma, Sharma Niwas, Home No.37, Behind Hanuman Temple, NH 3, Sangavi, Shirpur, Dhule - 425 405, Dhule, Maharashtra PAN : AOBPS4706E
Appellant		Respondent

Cross Objection No.51/PUN/2025
(Arising out of ITA No.2324/PUN/2025
Assessment Year : 2017-18

Santosh Jaynarayan Sharma, Sharma Niwas, Home No.37, Behind Hanuman Temple, NH 3, Sangavi, Shirpur, Dhule - 425 405, Dhule, Maharashtra PAN : AOBPS4706E	Vs.	Income Tax Officer, Dhule
Cross Objector		Appellant in the appeal

Appellant by	:	Shri Sanjay Dhivare (Through Virtual)
Respondent by	:	Shri Chinmayy Suhas Pathak
Date of hearing	:	22.12.2025
Date of pronouncement	:	06.01.2026

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal at the instance of Revenue and Cross Objection by the assessee pertaining to A.Y. 2017-18 are directed against the order dated 07.08.2025 framed by



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National Faceless Appeal Centre, Delhi emanating out of Assessment Order dated 22.04.2023 passed u/s.147 r.w.s.144 r.w.s.144B of the Income Tax Act, 1961 (in short 'the Act').

2. Revenue has raised following grounds of appeal :

"1. On the facts and in the circumstances of the case and in law the learned CIT(A) erred in holding that additions made on issues other than the one forming part of the "reasons to believe" for reopening were outside the scope of section 147, without appreciating that Explanation 3 to section 147, as inserted by the Finance (No. 2) Act, 2009, expressly empowers the Assessing Officer to assess or reassess any other income that comes to his notice during reassessment proceedings.

2. The learned CIT(A) erred in deleting the addition of ₹1,20,27,224 made by the Assessing Officer by rejecting the books of account u/s.145(3) and estimating net profit at 5% of turnover, without appreciating that the assessee had not maintained or produced basic records such as ledger accounts, purchase/sales bills, expense vouchers, or stock register, and that rejection of books was fully justified.

3. The learned CIT(A) erred in deleting the addition of ₹1,46,890 made by estimating net profit at 8% of contractual receipts of ₹18,36,123, without appreciating that these receipts were of a different nature from petroleum retail sales, possibly involving distinct cost structures, and in the absence of details, separate estimation was reasonable

4. The learned CIT(A) erred in deleting the addition of ₹49,00,000/- made u/s.69 r.w.s.115BBE in respect of unexplained investment in immovable property, ignoring that the assessee had failed to furnish any explanation or evidence for the source of funds during the assessment proceedings, and that the onus under section 69 squarely lay on the assessee. The Ld. CIT(A) also failed to appreciate the facts that the additions were made based on independent enquiries u/s.133(6) with various banks and on material gathered during assessment, and that such material constituted tangible evidence justifying the additions.

5. The Revenue craves leave to add, amend, alter, or withdraw any ground of appeal at the time of hearing."

3. At the outset, ld. Counsel for the assessee requesting for not pressing Ground Nos. 2 and 3 raised in the Cross



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Objection and stated that assessee deserves to succeed on Ground No. 1 raised in the Cross Objection as there is no proper approval u/s.151 of the Act prior to issuance of notice u/s.148 of the Act on 26.07.2022. In support of its contention, he submitted that case of the assessee is for A.Y. 2017-18 and the alleged escapement of income is less than ₹50.00 lakh and the notice u/s.148A(d) has been issued after three years and therefore the approval ought to have been taken from the Principal Chief Commissioner but the Assessing Officer while issuing notice u/s.148 of the Act on 26.07.2022 has taken approval from the Principal Commissioner of Income Tax which is not in accordance with law and therefore in absence of any proper approval u/s.151 of the Act, the assessment proceedings deserves to be quashed as null and void. In support, ld. Counsel referred and relied on the following decisions :

“Judicial Pronouncements in support of the proposition that Notice u/s 148 dated 26.07.2022 issued after three years from end of A.Y.2017-18 without obtaining the approval u/s 151 from Pr. CCITA CCIT is bad in law :

1. *Alag Property Construction Pvt. Ltd. v. ACIT [W.P. No. 3938/2022] [Bombay High Court] dated 08.09.2025*
2. *Core Logistic Company v. ACIT [(2025) 9 NYPCTR 879 (Madras High Court)] dated 05.06.2025*
3. *Bhagwan Sahai Sharma v. DCIT [(2025) 9 NYPCTR 725 (Delhi High Court)] dated 14.05.2025*
4. *M/s. Soft Zone v. DCIT [ITA No. 724/PUNE/2025] dated 21.05.2025*
5. *Karia Builders v. ITO 214 ITD 161 (Pune)] dated 23.07.2025*
6. *Manish Bhuta v. ITO [ITA No. 502/PUNE/2025] dated 20.11.2025*



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7. *ITO v. Rajaram Ramswarup Jaju [(2025) 39 NYP TTJ 568 (Pune)]*

Judicial Pronouncements in support of the proposition that where a legal issue is involved and all relevant facts are already available on record, then the ITAT must decide the legal issue itself rather than remitting it back to lower authorities -

1. *Sony Pictures Networks India Pvt. Ltd. v. ITAT [411 ITR 447 (Bombay High Court)]*
2. *Coca Cola India Pvt. Ltd. v. Asst. Regt. representing ITAT [368 ITR 487 (Bombay High Court)."*

4. On the other hand, ld. Departmental Representative supported the order of ld.CIT(A) on the issue of approval.

5. We have heard the rival contentions and perused the record placed before us. We observe that the assessee is an individual and the return of income for A.Y. 2017-18 filed on 17.03.2018 declaring income of ₹20,31,900. Ld. Assessing Officer based on the information about explained cash credit/investment amounting to ₹45,76,025 had reason to believe that income to this extent has escaped assessment and has issued notice u/s.148 of the Act on 26.07.2022 after taking approval from the Principal Commissioner, Nashik. Now the issue raised by the assessee in Ground No.1 of the Cross Objection that since the escapement of income is less than ₹50.00 lakh and notice has been issued after three years, ld. Assessing Officer ought to have taken approval from Principal Chief Commissioner of Income Tax in place of Principal Commissioner of Income Tax. We observe that similar issue came for adjudication before the Hon'ble Jurisdictional High Court in the case of *Alag Property Construction Pvt. Ltd. Vs. ACIT* wherein also for A.Y. 2017-18 notice u/s.148A(d) and section 148 of the Act were issued on



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18.08.2022 and 23.08.2022 and Hon'ble Court has dealt with the issue of grant of approval u/s.151 of the Act for issuing notice u/s.148 of the Act beyond three years observing as follows :

"10. On perusal of the order dated 18.08.2022, passed under Section 148A(d) of the Act we find that the aforesaid order was passed after taking approval from Principal Commissioner of Income Tax (Respondent No.2). Since the aforesaid order was passed, as well as the notice under section 148 was issued, after the expiry of three years from the end of A.Y. 2017-18, as per the substituted provisions of re-assessment, the authority specified under Section 151(ii) of the Act (i.e. Principal Chief Commissioner or Chief Commissioner) was required to grant approval. Accordingly, we conclude that in the present case, the approval has been obtained from the authority specified under Section 151(1) of the new regime instead of the authority specified under Section 151(ii) of the new regime.

11. The Hon'ble Supreme Court in the above case has drawn an illustration in para 78 of its order in the context of A.Y. 2017-18 (which is also the relevant Assessment year in the present Writ Petition) wherein it is categorically held that the authority specified under section 151(1) can accord sanction only upto 30.06.2021. This illustration makes it absolutely clear that when the period of three years from end of relevant Assessment Year expired between 20.03.2020 and 31.03.2021, the extension by virtue of TOLA was upto 30.06.2021 and not beyond. Thus, it can be said that the period of three years from the end of the relevant Assessment Year (in the present case A.Y. 2017-18) expired on 30.06.2021, whereas Respondent No.1, despite passing order under section 148A(d) on 18.08.2022, and issuing notice under section 148 on 23.08.2022 [in respect of Assessment Year 2017-18], has obtained approval of Respondent No.2 who is not the authority as prescribed under section 151(ii).

12. Non-compliance by Respondent No.1 with the provisions contained in Section 148A(d) read with Section 151(ii) vitiates the jurisdiction of Respondent No.1 to issue a notice under Section 148 of the Act.

13. We are clearly of the view that the present matter stands covered by the decision of Hon'ble Supreme Court in the case of UOI vs. Rajeev Bansal (supra) and we are bound by it. Accordingly, we hold that the order dated 18.08.2022 passed under Section 148A(d) of the Act and the consequential notice issued under section 148 dated and 23.08.2022 are bad in law, and hence, are required to be quashed and set aside.



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14. We accordingly set aside the impugned order dated 18.08.2022 passed under Section 148A(d) of the Act and the consequential notice issued under section 148 dated 23.08.2022, and all other proceedings/orders emanating therefrom.”

6. On examining the facts of the instant case in light of the above judgment, we find that in the assessee's case also notice u/s.148 of the Act has been issued after three years and the proper course of action for issuing valid notice u/s.148 of the Act was to get approval from the Principal Chief Commissioner of Income Tax. However, in the instant case, the approval has been taken from the Principal Commissioner of Income Tax. Respectfully following the above judicial binding precedent, we are inclined to hold that proper approval u/s.151 of the Act has not been taken and therefore the notice u/s.148 of the Act is invalid and liable to be quashed. Accordingly, Ground No.1 raised by the assessee in the Cross Objection is allowed.

7. So far as the remaining grounds raised by the assessee in the Cross Objection as well as the grounds raised by the Revenue, dealing with the same would be merely academic in nature and therefore the same are held to be infructuous.

8. In the result, the appeal filed by the Revenue is dismissed whereas the Cross Objection filed by the assessee is partly allowed.

Order pronounced on this 06th day of January, 2026.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 06th January, 2026.
Satish



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आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.