

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “E” BENCH: NEW DELHI**

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.5834/Del/2024**  
**[Assessment Year: 2016-17]**

ACIT, Circle 28(1), Room No. 1001, 10 <sup>th</sup> Floor, E-2 Block, Civic Centre, New Delhi-110002	v s	M/s. Munjal Holdings, S-232A, Panchsheel Park, New Delhi -110017. <b>PAN-AARFM9486D</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Revenue by</b>		Ms. Amisha S. Gupta, CIT-DR
<b>Assessee by</b>		Ms. Shashi M. Kapila, Adv. and Mr. Pravesh Sharma, Adv.
<b>Date of Hearing</b>		03.11.2025
<b>Date of Pronouncement</b>		07.01.2026

**ORDER**

**PER MANISH AGARWAL, AM:**

The present appeal is filed by the Revenue against the order dated 12.01.2024 of Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld. CIT(A)”] in Appeal No. NFAC/2017-18/10047822 passed u/s 250 of the Income Tax Act,1961 [“the Act”] arising out of the reassessment order dated 25.03.2021 passed u/s 143(3) of the Act pertaining to Assessment Year 2016-17.

2. Brief facts of the case are that assessee is a partnership firm and filed its return of income u/s 139(1) of the Act on 19.08.2016 declaring total income of Rs.15,89,50,640/-. The case of appellant was assessed u/s. 143(3) of the Act on 18.12.2018 wherein the

returned income was accepted. Thereafter, based on the information received on Insights portal that assessee has made Losses in Equity/Derivative Trading during AY 2016-17. It was further noted that assessee has received dividends from mutual funds but the same was not real and sham transactions. Accordingly notice u/s 148 was issued on 29.06.2021 and reassessment proceedings were commenced. After the order of hon'ble Supreme court in the case of UOI vs. Ashish Agarwal and CBDT notification No. 1/2022 dt. 11.05.2022, the notice issued u/s 148 dt. 29.06.2021 was treated as notice u/s 148A(b) of the Act and the order u/s 148A(d) was passed and notice u/s 148 was issued on 30.07.2022 after obtaining approval from the PCIT. Thereafter the AO proceeded with reassessment proceedings and after considering the submissions made by the assessee in response to statutory notices issued u/s 142(1), the reassessment order was passed u/s 147 r.w.s. 144B of the Act on 30.05.2023 wherein the total income of assessee was assessed at Rs. 352,31,24,415/- by making additions of Rs. 165,57,48,917/- u/s 68 of the Act and further addition of Rs. 170,84,24,858/- was made by holding the short-term capital loss as ingenuine loss.

3. Against the said order, assessee preferred an appeal before Ld. CIT(A), who allowed the appeal of the assessee on the ground that the very foundation of assessment i.e. the notice u/s 148 of the Act dt. 30.7.2022 has already been quashed by the hon'ble Delhi High court in the writ petition filed by the assessee.

4. Aggrieved by the said order, Revenue is in appeal before the Tribunal by taking following grounds of appeal:-

- “1. *Whether on the facts and circumstances of the case, the Ld. CIT(A) was justified in allowing the appeal of the assessee, without considering the Judgment of Hon'ble Supreme Court vide order dated 03.10.2024 in the Civil Appeal No 8629 of 2024, Union of India & Ors. Vs Rajeev Bansal in which Hon'ble Supreme Court stated that: "The judgments of the High Courts rendered in Union of India v. Rajeev Bansal, 165 Keenara Industries Pvt. Ltd. v. ITO, Surat, 166 J M Financial and Investment Consultancy Services Pvt. Ltd. v. ACIT, 167 Siemens Financial Services Pvt. Ltd. v. DCIT, 168 Geeta Agarwal v. ITO, 169 Ambika Iron and Steel Pvt Ltd v. PCIT, 170 Twylight Infrastructure Pvt Ltd v. ITO, 171 Ganesh Dass Khanna v. ITO, 172 and other judgments of the High Courts which relied on these judgments, are set aside to the extent of the observations made in this judgment"?*
2. *Whether on the facts and circumstances of the case, the Ld. CIT(A) was justified in allowing the appeal of the assessee without considering the facts that the assessee has earned dividend of Rs. 165,57,48,917/- and the same amount is not offered for taxation in the AY 2016-17?*
3. *Whether on the facts and circumstances of the case, the Ld. CIT(A) was justified in allowing the appeal of the assessee without considering the facts that the assessee has claimed bogus short-term capital loss of Rs. 170,84,24,858/- from the same investment from which it got dividend income of Rs. 165,57,48,917/- in the same AY 2016-?*
4. *The appellant reserves right to add, alter or amend the grounds of appeal on or, before the date of disposal of appeal.”*

5. In **Ground of appeal No.1** Revenue has challenged the action of the ld. CIT(A) in allowing the appeal of assessee by following the judgement of hon'ble Delhi high court wherein the hon'ble court has allowed the writ petition filed by the assessee and quashed the order passed u/s 148A(d) of the Act and subsequent notice issued u/s 148 of the Act dt. 30.07.2022 as the same was issued without obtaining

approval from the specified authority prescribed u/s 151(ii) of the Act.

6. Before us, Revenue has vehemently supported the order of the AO and submits that the hon'ble jurisdictional high court while allowing the writ petition of the assessee has followed its earlier order delivered in the case of **Twylight Infrastructure Pvt. Ltd. Vs. CIT** reported in **2024-DHC-259-DB** however, the said order was considered and set aside by the hon'ble supreme court in the case of **UOI Vs. Rajeev Bansal** reported in **469 ITR 46(SC)**. Ld. CIT DR further submits that ld. CIT(A) has not decided the issues raised by the assessee on merits therefore, the order of ld. CIT(A) be set aside and remand back to his file to decide the issues on merits. She prayed accordingly.

7. On the other hand, Ld. AR for the assessee supported the order of ld. CIT(A) and submits that notice u/s 148 of the Act was issued on 30.7.2022 and quashed by Hon'ble Jurisdictional high court in terms of its order dt. 23.08.2024 in WP(C) No.8836 of 2023 and ld. CIT(A) has followed the said order while allowing the appeal of the assessee. It is further submitted by ld. AR that in the case of Rajeev Bansal (supra), Hon'ble Apex court upheld the observation made by Hon'ble Delhi high court in case of Twylight Infrastructure Pvt. Ltd. (supra) regarding approval from specified authority under the amended section 151(ii) of the Act. In the present case, notice u/s 148 was issued after the expiry of three years and as per amended section 151(ii) of the Act, same should be issued with the prior

approval of Principal Chief Commissioner or Principal Director General or where there is no such authority, by Chief Commissioner or Director General and not the Principal Commissioner of Income Tax as has been given in the present case. For this reliance is placed on the judgement of Hon'ble Delhi High court in the case of **Communist Party of India (Marxist) Vs. ITO** reported in **[2025] 174 Taxmann.com 925** and requested for the confirmation of the order of ld. CIT(A).

8. Heard both the parties and perused the material available on record. Main contention of the revenue is that Hon'ble Supreme court in case of Rajeev Bansal (supra) set aside the order Hon'ble Delhi High court in the case of Twylight Infrastructure (supra). It is seen that the Hon'ble Supreme court in the case of Rajeev Bansal (supra) has decided the issue of sanction u/s 151 under the old regime and new regime i.e. post amendment vide para 73 to 80 in "Part-E" of the order which is reproduced as under:

**iii. Sanction of the specified authority**

73. Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under Section 148. The purpose behind this procedural check is to save the assesses from harassment resulting from the mechanical reopening of assessments.<sup>128</sup> A table representing the prescription under the old and new regime is set out below:

<b>Regime</b>	<b>Time Limits</b>	<b>Specified Authority</b>
Section 151(2) of old regime	Before expiry of four years from the end of relevant assessment year	Joint Commissioner
Section 151(1) of old regime	After expiry of four years from the end of relevant assessment year	Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner

<i>Section 151(i) of new regime</i>	<i>Three years or less than three years from the end of the relevant assessment year</i>	<i>Principal Commissioner or Principal Director or Commissioner or Director</i>
<i>Section 151(ii) of the new regime</i>	<i>More than three years have elapsed from the end of the relevant assessment year</i>	<i>Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General</i>

74. *The above table indicates that the specified authority is directly correlated to the time when the notice is issued. This plays out as follows under the old regime:*

- (i) If income escaping assessment was less than Rupees one lakh: (a) a reassessment notice could be issued under Section 148 within four years after obtaining the approval of the Joint Commissioner; and (b) no notice could be issued after the expiry of four years; and*
- (ii) If income escaping was more than Rupees one lakh: (a) a reassessment notice could be issued within four years after obtaining the approval of the Joint Commissioner; and (b) after four years but within six years after obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.*

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.*

76. *Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under Section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the assessing officer with the strict time limits prescribed under Section 151 affects their jurisdiction to issue a notice under Section 148.*
77. *Parliament enacted TOLA to ensure that the interests of the Revenue are not defeated because the assessing officer could not comply with the preconditions due to the difficulties that arose during the COVID-19 pandemic. Section 3(1) of TOLA relaxes the time limit for **compliance** with actions that fall for completion from 20 March 2020 to 31 March 2021. TOLA will accordingly extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has an extended time till 30 June 2021 to grant approval. In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(2) has time till 31 March 2021 to grant approval. The time limit for Section 151 of the old regime expires on 31 March 2021 because the new regime comes into effect on 1 April 2021.*
78. *For example, the three year time limit for assessment year 2017-2018 falls for completion on 31 March 2021. It falls during the time period of 20 March 2020 and 31 March 2021, contemplated under Section 3(1) of TOLA. Resultantly, the authority specified under Section 151(i) of the new regime can grant sanction till 30 June 2021.*
79. *Under Finance Act 2021, the assessing officer was required to obtain prior approval or sanction of the specified authorities at four stages:*
- a. *Section 148A(a) – to conduct any enquiry, if required, with respect to the information which suggests that the income chargeable to tax has escaped assessment;*

- b. *Section 148A(b) – to provide an opportunity of hearing to the assessee by serving upon them a show cause notice as to why a notice under Section 148 should not be issued based on the information that suggests that income chargeable to tax has escaped assessment. It must be noted that this requirement has been deleted by the Finance Act 2022;*
  - c. *Section 148A(d) – to pass an order deciding whether or not it is a fit case for issuing a notice under Section 148; and*
  - d. *Section 148 – to issue a reassessment notice.*
80. *In **Ashish Agarwal** (supra), this Court directed that Section 148 notices which were challenged before various High Courts “shall be deemed to have been issued under Section 148-A of the Income Tax Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b).” Further, this Court dispensed with the requirement of conducting any enquiry with the prior approval of the specified authority under Section 148A(a). Under Section 148A(b), an assessing officer was required to obtain prior approval from the specified authority before issuing a show cause notice. When this Court deemed the Section 148 notices under the old regime as Section 148A(b) notices under the new regime, it impliedly waived the requirement of obtaining prior approval from the specified authorities under Section 151 for Section 148A(b). It is well established that this Court while exercising its jurisdiction under Article 142, is not bound by the procedural requirements of law.*
81. *This Court in **Ashish Agarwal** (supra) directed the assessing officers to “pass orders in terms of Section 148-A(d) in respect of each of the assesses concerned.” Further, it directed the assessing officers to issue a notice under Section 148 of the new regime “after following the procedure as required under Section 148-A.” **Although this Court waived off the requirement of obtaining prior approval under Section 148A(a) and Section 148A(b), it did not waive the requirement for Section 148A(d) and Section 148. Therefore, the assessing officer was required to obtain prior approval of the specified authority according to Section 151 of the new regime before passing an order under Section 148A(d) or issuing a notice under Section 148. These notices ought to have been issued following the time limits specified under Section 151 of the new regime read with TOLA, where applicable.***

9. As could be seen that the Hon'ble Supreme court in para 81 of its order categorically observed that prior approval of the specified authority u/s 151 of the new regime is *sine qua non* before issue of notice u/s 148 of the Act. In para 73 of the order, the Hon'ble court also defined the prescribed authority as per the timeline provided in amended section 151.

10. In the present case from the perusal of the notice issued u/s 148 of the Act dt. 30.7.2022, it is evident that the same is issued after the prior approval of Pr. Commissioner of Income Tax though the same is issued after the expiry of three years from the end of relevant assessment year. In terms of the amended section 151(ii) of the Act, the approval should be from **Principal Chief Commissioner or Principal Director General or where there is no such authority, by Chief Commissioner or Director General** and not from any authority below such rank as has been done in the present case. The Hon'ble jurisdictional High Court in the case of assessee while allowing the writ petition filed by the assessee has observed that the approval for issue of notice u/s 148 was not taken from the authority prescribed u/s 151 of the Act and thus this order is fully in the light of the judgement of Hon'ble Supreme court delivered in the case of Rajeev Bansal (supra) and it cannot be said that the said order is reverse by the Hon'ble Supreme court and cannot be applied to the facts of present case.

11. Similarly, in the case of **Communist Party of India (Marxist) vs. CIT Exempt.** reported in [2025] 174 taxmann.com 925 (Delhi), the Hon'ble Delhi High court held as under:

- "8. The AO issued a notice dated 29.07.2022 under Section 148 of the Act accompanied with the order dated 29.07.2022 passed under Section 148A(d) of the Act. It is the petitioner's case that the said notice is barred by limitation.
9. It is material to note that the original notice under Section 148 of the Act [deemed to be a show cause notice under Section 148A(b) of the Act in terms of the decision in the case of Union of India & Ors. v. Ashish Agarwal (supra)] was issued on 28.06.2021, that is, two days prior to the expiry of the limitation period as extended by virtue of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA]. Thus, the AO had two days to issue the notice under Section 148 of the Act after receiving the reply dated 08.06.2022 filed by the petitioner. Since the said period was less than seven days, the AO had, by virtue of the fourth proviso to Section 149(1) of the Act, seven days to pass an order under Section 148A(d) of the Act (which was necessarily required to accompany a notice under Section 148 of the Act). The said period expired on 16.06.2022. Therefore, the order passed under Section 148A(d) of the Act was beyond the period of limitation.
10. The impugned notice is also liable to be set aside on the ground that it was issued without the approval of the authority specified under Section 151 of the Act. Since the impugned notice was issued beyond the period of three years from the end of the relevant assessment year, thus, in terms of Section 151(ii) of the Act, the same was required to be approved by the Principal Chief Commissioner or Principal Director General or where there is no such authority, by Chief Commissioner or Director General. The determination of the specified authority for grant of approval under Section 151 of the Act depends on whether the notice under Section 148 of the Act has been issued after the expiry of three years from the end of the relevant assessment year or within the said period."

12. In view of these facts and by respectfully following the judgement of Hon'ble Supreme court in the case of Rajeev Bansal (supra) and of Hon'ble Delhi high in the case of assessee itself and also in the case of Communist Party (Marxist) India (supra), we hereby confirmed the order of Id. CIT(A) holding that when Hon'ble jurisdictional High Court has already quashed the order u/s 148A(d) of the I.T. Act dated 30.07.2022 and the notice referable to section 148 dated 30.07.2022, all the consequential proceedings initiated

thereto and the order passed by the AO does not survive. We order accordingly. The ground of appeal No.1 of the revenue is thus, dismissed.

13. Since the legal ground of appeal taken by the revenue is dismissed and confirmed the order of ld. CIT(A) on legal issue, other grounds of appeal taken on merits are not adjudicated.

14. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 07.01.2026.

Sd/-

**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

**Date:- 07.01.2026**

*\*PK, Sr. P.S.\**

Sd/-

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

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