

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)**

**I.T.A. No.7191/Mum/2025
Assessment Year: 2017-18**

Swapnal Subhash Anbhavane 901, C-Wing, Anand Heights S.M.D. Road, Antop Hill S.O. Wadala (East) Mumbai - 400037 [PAN:AFTPA4184R]	Vs.	Income Tax Officer, Ward
(Appellant)		(Respondent)

Assessee by	Shri Fenil Bhatt, A/R
Revenue by	Shri Vikas Chandra, Sr. DR

Date of Hearing	13.01.2026
Date of Pronouncement	19.01.2026

ORDER

Per Smt. Beena Pillai, JM:

Present appeal filed by assessee arises out of order dated 17/09/2025 passed by NFAC, Delhi [hereinafter “the Ld.CIT(A)”], for Assessment Year 2017-18 on following grounds of appeal:-

“1) That on the facts and circumstances of the case and in law, the Assessing Officer has erred in assessing the income of the Appellant at RS.47,74,681/-. As such the addition of Rs.47,74,681/- under the head income from other sources u/s 56(2)(vii)(b) may please be deleted.

2) That having regard to the facts and circumstances of the case and despite providing all the explanations with evidences called for, the Assessing Officer has erred on facts and in law in making an addition of Rs.47,74,681/- under section 56(2)(vii)(b) of the Income Tax Act, 1961 in contravention of the provisions of the said section, wherein, the Agreement for the purchase of the residential flat was registered on 23/02/2017.

3) That having regard to the facts and circumstances of the case, the Assessing Officer has erred on facts and in law in making the addition of Rs.47,74,681/- under section 56(2)(vii)(b) of the Income Tax Act, 1961 under the premise that the Appellant has failed to prove that the entire consideration was paid by the Appellants spouse.

4) That the Assessing Officer has misdirected himself or has routinely initiated proceedings under section 270A of the Income Tax Act, 1961 as underreporting of income, where, in fact, the purported underreporting is a matter of incorrect application of law and thus devoid of merits and contrary to law and needs to be quashed and prayed for accordingly.

5) The Appellant craves leave to add, amend, alter and/or delete any/all of the above grounds of Appeal before or at the time of hearing of the Appeal.”

2. Brief facts of the case are as under:-

The assessee had not filed any return of income for the year under consideration as she is a home-maker. However, based on information passed through the Insight Portal regarding assessee having entered into purchase of an immovable property at Rs.46,13,239/- where the stamp duty value adopted was Rs.1,41,62,600/-, notice u/s 148 of the Act was issued to the assessee. The Ld.AO was of the opinion that there was difference of Rs.95,49,361/- between agreement value as well as the stamp duty value.

2.1. After completing the due procedure under the new provisions of Section 148A notice u/s 148 was issued on 31/07/2022. The assessee was thereafter called upon to furnish of the details regarding the purchase of immovable property, details of the consideration etc. Ld.AO invoked provisions of Section 56(2)(vii)(b) of the Act regarding the difference in the value as per the agreement and as per the stamp duty authority.

2.2. In response to the statutory notice, assessee submitted before Ld.AO that, she is a home-maker and is not engaged in any kind of business activity. It was submitted that, during the year under consideration she had received income by way of bank interest and

dividend income and that she had account in Abhyudaya Bank Ltd., copy of the bank statement was furnished before Ld.AO. It was submitted that, during financial year relevant to AY 2011-12, assessee along with her husband as a joint-owner, purchased a property from Evergreen Developers. Assessee in reply furnished before Ld.AO had submitted that, she was a co-applicant to the said agreement, for purchase of the immovable property.

2.3. It was submitted that on 13/03/2009, a flat with 760 sq.ft. Carpet area was booked in A-wing No. 901, of Anand Heights at Survey No.340,341,342, Sheikh Mistry Road, Antop Hill, Wadal (East), Mumbai-400037, for a total consideration of Rs.46,13,238/-. It was submitted that, assessee husband had paid Rs.30,50,000/- as advance on various dates thereafter as the building was under construction.

2.4. Assessee submitted that, subsequently as the rate of the property increased, the builder cheated on the assessee and her husband and sent notices cancelling the agreement and sold the flat to someone else. As a consequence, to the action of the builder, assessee's husband filed case in the Consumer Court on 19/03/2013 vide Case no.CC/13/120. The *Hon'ble Consumer Disputes Redressal Commission, Maharashtra*, vide *Consent Terms order dated 07/06/2016* issued decree in favour of assessee and her husband. As per the consent terms, the builder agreed to sell another residential flat in the same premises for the same amount of Rs.46,13,238/-, in different wing being C-wing having ad-measuring area of 649.27 sq.ft. As per the consent terms, assessee was only

required to pay the balance Rs.15,63,238/- to the builder having regard to the fact that Rs.30,50,000/- was already paid which duly acknowledged by the builder before the Consumer Commission.

2.5. The Ld.AO, however, was of the opinion that just because the consideration is paid according to the direction of the Consumer Court the transaction would not become tax-free for adopting the stamp duty value for the entire year. The Ld.AO thus, called upon the assessee to explain as to why provisions of Section 56(2)(vii)(b) of the Act is not applicable to the differential amount of the stamp duty valuation and the agreement value of the immovable property. The Ld.AO after considering various submissions of assessee observed and held as under:-

“6. According to the sale agreement dated.08.09.2010, the assessee and her spouse Shri.Subhash Narayan Anbhavane (herein after called parties) were agreed to acquire the flat no.901, admeasuring 760.00 Sq.ft on the gin floor of A-wing of "Anand Heights", Antop Hill, Wadala (East), Mumbai for the price of Rs.54,00,000/-. On which Rs.14,00,000/- was paid as earnest money. And the balance of Rs.40,00,000/- has to pay as per the schedule of the agreement.

7. As there was some disputes occurs between the parties and the builder, they have made complaint no.120/2013 before Consumer Disputes Redressal Commission of Mumbai. On which, an order was passed. on 08,09.2016, directed the parties to pay Rs.15,63,238/-(after adjusting the advance payment received by the builder), being the balance amount out of agreed price of Rs.46,13,238, as the builder has agreed to allot residential flat no.901 at gth floor in the C-wing of "Anand Heights, Antop Hill, Wadala (East), Mumbai.

8. Accordingly, the conveyance deed was registered on 23.02.2017 on which, the purchase price was Rs.46,13,238.65/- and the stamp duty value was Rs.1,41,62,600/-. Therefore, the stamp duty of Rs.708200/- was paid by the assessee against the stamp duty value adopted by the Sub-Registrar. However, the assessee in her reply stated that the Consumer Disputes Redressal Commission has directed the builder to bear the expenses of stamp duty and registration fee on the market value. But no such information has been noticed in the order passed by the commission also.

9. The assessee has also failed to prove the payment towards purchase was borne by the assessee's husband Shri. Subhash Narayan Anbavane till date. Also, in the absence of valid Return of Income filed for the year under consideration, I have considered that the 50% of assessee's share on the difference between stamp duty value and the purchase consideration paid of Rs. 47,74,681/-95,49,362 is to be treated as unexplained as the assessee has not fulfilled the conditions laid down in the proviso of section 56(2)(vii)(b) of the Act.

Further to the earlier submissions and more particularly in response to the Show cause Notice dated 10/05/2023 bearing DIN: ITBA/AST/F/147(SCN)/2023-24/1052710104(1) the assessee submits as under:

1. The show cause notice by way of a proposed Assessment Order is not in acceptance to the submissions of the assessee and the proposed addition of Rs. 47,74,681/-u/s 69A of the Income Tax Act, 1961, is itself an incorrect section for the addition. The law has provided that such differences are covered u/s 56(2)(vii)(b) of the IT Act.

2. The assessee has explained that she is a housewife and has no source of income and that her name was included by her spouse in the purchase of the said property without any contribution by the assessee.

The entire purchase contribution as regards the said property was met by the assessee's husband.

3. For the sake of good order, the assessee is annexing the Order of her husband u/s 148A(d) of the Income-Tax Act, 1961 in respect of the same property and the same difference of Rs. 95,49,361/ marked as Annexure 1. The said Order passed by an Officer of the Income Tax department has taken note of the husband's contribution towards the said property and based on the facts has judiciously dropped the proceeding u/s 148 of the Income-Tax Act, 1961.

4. There is nothing to doubt from the Order u/s 148A(d) of the Income-Tax Act, 1961 passed in case of the assessee's husband that he himself has contributed to the purchase of the property and is covered by the proviso to section 56(2)(vii)(b) of the Income-Tax Act, 1961 which reads as Provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not same, the stamp duty value on the date of the agreement may be taken for the purposes of this sub-clause.

5. The Order passed u/s, 148A(d) of the Income Tax Act, 1961, in case of the assessee's husband is enough of proof and evidence that the assessee's husband himself was the sole contributor as regards the purchase of the

property. What is established now is that the assessee's name is included as a joint holder.

6. Here the question arises whether the assessee would be attracted to the provisions of section 56(2)(Vii)(b) of the Income-Tax Act, 1961 and the answer to this is Yes, but the assessee is covered and protected under the definition of Relative and exempts the applicability of the said section. Hence, the assessee cannot be brought to tax u/s 56(2)(vii)(b) of the Income-Tax Act, 1961 and the question of addition u/s 69A of the Income-Tax Act, 1961 does not arise. Addition made shall be in direct defiance of the enacted Act and grossly unjust and illegal.

7. The assessee being well covered under the provisions of the enacted Act, requests you to judiciously examine and assess and if legally correct not to subject the assessee to unnecessary litigative process causing unwanted hardship by making a high pitched assessment.

According to the assessee's reply, the difference of Rs.95,49,361/- has already been taken into account on her husband's case vide order was passed u/s 148A(d) of the Act dated 25.07.2022. Hence, the same amount has to be assessed in the case of the assessee is illegal.

15. The contention of the assessee is duly perused and not considered for the following reason.

a. There is no evidence furnished by the assessee that any order passed by the Assessing Officer assessing the difference of Rs.95,49,361/- against the spouse of the assessee for the A.Y.2017-18 or not

b. Failed to prove that the entire consideration was paid by the spouse of the assessee or not.

In view of the above, for the interest-of revenue, I have considered that 50% of share on the difference between the purchase consideration and the stamp duty value of Rs.47,74,681/- is treated as deemed income of the assessee and assessed under " Income from Other Sources".

Aggrieved by the order of Ld.AO, assessee preferred appeal before Ld.CIT(A).

3. The Ld.CIT(A) dismissed the appeal of assessee by holding that assessee failed to prove that the entire consideration was paid by her spouse.

Aggrieved by the order of Ld.CIT(A), assessee is in appeal before this Tribunal.

4. At the outset, the Ld.AR submitted that, assessee has filed application seeking admission of following additional ground:-

“1. The hearing of the captioned appeal is fixed before Your Honours on January 13, 2026. In this connection, I humbly submit the following:

2. During the conference, the Counsel suggested to me to raise an additional ground, attached herewith as "Annexure -A", challenging the jurisdiction of the Assessing Officer in invoking provisions of section 147 of the Act.

3. It is submitted that the Additional Ground of Appeal is a legal plea and does not require any investigation of new facts. The additional ground strikes at the root of the matter.

4. I respectfully submit that, as per the settled legal position, the Hon'ble Tribunal has powers to admit additional grounds of appeal.”

4.1. The Ld.AR submitted that, the above issue raised challenging the validity of reopening of assessment goes to the root of the cause and does not require any new facts to be considered to adjudicate. He placed reliance on the decisions of *Hon'ble Supreme Court* in the case of *Jute Corporation of India Ltd. v.CIT* reported in(1991) 187 ITR 688 (SC) and *National Thermal Power Co.Ltd.v.CIT* reported in (1998) 229 ITR 383 (SC).

4.2. On the contrary, the Ld.DR though objected to the application seeking admission of additional grounds, could not controvert the submission of assessee in respect of the same.

We have carefully considered the application filed by the assessee seeking admission of the additional grounds.

5. On perusal of the record, we find that the additional grounds sought to be raised are purely legal in nature and go to the very root of the matter. The facts necessary for adjudication of these grounds are already borne out from the material available on record and no

further investigation of facts are required. It is a settled position of law that a legal issue, which has a bearing on the determination of the correct tax liability, can be raised at any stage of the proceedings. In the interest of substantial justice and to render a complete and effective adjudication of the controversy before us, we deem it appropriate to admit the additional grounds.

Accordingly, the additional grounds raised by the assessee are admitted for adjudication.

6. On merits, the Ld.AR submitted that, on similar situation, Ld.AO reopened the assessment of assessee's husband vide notice dated 30/05/2022 show-causing assessee's husband to provide details as to why notice u/s 148 of the Act should not be issued with reference to the information provided. Ld. AR submitted that, assessee's husband thereafter vide reply dated 24/06/2022 filed submissions and all details regarding purchase of the property and the court proceedings initiated by him against the builder, the decree dated 07/06/2016 passed by the *Hon'ble Consumer Disputes Redressal Commission, Maharashtra* along with Consent Terms drawn between assessee's husband and the developer. The Ld.AR submitted that based on these details, Ld.AO vide order dated 25/07/2022, dropped the 148 proceedings while passing order u/s 148A(d) of the Act.

6.1. He submitted that, admittedly assessee in the present facts of the case did not contribute to the purchase of the property and the entire sale consideration was paid by her spouse to the builder. The breakup of the part sale consideration paid by assessee's spouse to

the builder in respect of the original flat in A-wing is furnished at page 104 of the paperbook. Ld.AR submitted that assessee's husband had made these payments through three banks being Abhyudaya Co-operative Bank Ltd., Cosmos Bank Ltd. and Axis Bank and a sum of Rs. 4,00,000/- was paid by cash on various dates starting from 13/03/2009 till 26/02/2010. He submitted that, assessee cannot be held liable in respect of the agreement entered into by her husband with the builder merely because assessee is a joint name holder.

6.2. Without prejudice, Ld.AR on the issue raised in additional grounds, submitted that, the entire differential value between the stamp duty valuation and the agreement value cannot be added in hands of assessee as assessee is 50% owner of the immovable property so purchased which is less than Rs. 50,00,000/-. He thus, submitted that, the Competent Authority who was required to approve the re-opening of assessment would be as per Section 151 of the Act. It is the submissions of Ld.AR that as the Pr. Chief Commissioner -17, granted approval for issuing of notice u/s 148 for the monetary limit being less than Rs. 50,00,000/- is *void ab initio* as the present notice has been issued after the expiry of three years.

6.3. He submitted that, as per the provisions of Section 151(ii), the appropriate authority who is to sanction the passing of order u/s 148A(d) as well as notice u/s 148 would be Pr. Chief Commissioner or Chief Commissioner. In support, he placed reliance on the decisions of *Hon'ble Supreme Court* in the cases of *UOI vs. Rajeev Bansal* reported in (2024) 167 taxmann.com 70 and *UOI vs. Ashish Agarwal* reported in (2022) 138 taxmann.com 64. The Ld.AR also

placed reliance on the decision of Co-ordinate Bench of this *Tribunal* in the case of *M/s R S Construction* in *I.T.A. No.4918/Mum/2025*; order dated 31.10.2025, wherein identical issue has been considered and the proceedings u/s 148 were quashed.

6.4. On the contrary, Ld.DR on merits submitted that, authorities below are doubting the source of the advance paid by assessee amounting to Rs.30,50,000/- before the Consent Terms were entered into between the assessee and the builder. He submitted that, these details were never furnished before the authorities below and, therefore, claim of assessee was rejected.

6.5. At this juncture, this *Tribunal* called upon Ld.AR to furnish details of the payment made to the builder towards advances for purchase of property as per the original agreement entered into between her spouse and the builder. In support, the Ld.AR furnished the bank statements of assessee's husband held with Abhyudaya Co-operative Bank Ltd., Cosmos Bank Ltd. and Axis Bank from where the payments were made through banking channels on various dates as marked therein to the developer that amounted to Rs.30,50,000/- which was prior to the Consent Terms arrived between the parties therein. The Ld.AR in response submitted reconciliation of payments made by assessee's husband to the developer on various dates as under:-

RECONCILIATION OF PAYMENTS TO THE DEVELOPER						
A						
PAYMENTS MADE BY SUBHASH ANMBHAVANE (HUSBAND)						
Sr. No.	DATE	BANK	A/C. NO.	CH. NO	AMOUNT IN Rs.	BANK STATEMENT PAGE No.
1.	13/03/2009	ABHYODEAYA CO.OP.BANK	32978	458493	2,50,000	2
2.	31/03/2009	-DO-	-DO-	458494	10,00,000	3
3.	02/03/2010	-DO-	-DO-	458496	1,50,000	4
4.	10/02/2017	-DO-	-DO-	RTGS	15,63,238	5
5.		CASH	-DO-		4,50,000	
				TOTAL PAYMENTS	34,13,238	
B						
PAYMENTS MADE BY SWAPNAL SUBHASH ANMBHAVANE						
6.	13/03/2009	AXIX BANK	124010100256032	432797	4,50,000	6
7.	05/08/2009	-DO-	-DO-	550301	3,50,000	7
8.	02/03/2010	-DO-	-DO-	550318	1,00,000	8
9.	25/11/2009	COSMOS	012100108150	572673	3,00,000	11
				TOTAL PAYMENTS	12,00,000	
			GRANT TOTAL	A + B	46,13,238	

6.6. The Ld.AR submitted that, assessee was a joint-owner and had not contributed anything towards the purchase of the property, cannot lead to the conclusion that disallowance could be made in the hands of assessee alone, more so, when assessee's husband has been exonerated from the identical proceedings by Ld.AO.

6.7. The Ld.AR has also placed reliance on the decision of *Hon'ble Bombay High Court* in the case of *Kalpita Arun Lanjekar* in *W.P. No. 5966 of 2023, judgment dated 11/03/2024*, wherein similar facts were analysed by *Hon'ble High Court*. For the sake of convenience, the facts as observed by *Hon'ble High Court* based on which the view has been taken regarding the validity of notice as well as reopening of assessment, is reproduced as under:-

"2. Petitioner by a letter dated 28th February 2023 issued through Raju More & Associates, Chartered Accountants submitted that the property was purchased by her husband Mr. Pravin Patil and all the payments were made by him. Petitioner also explained that Petitioner's name was included as a joint holder in the agreement for sale, but no-payment has been made by Petitioner. Copy of the registered agreement for the property, husband's bank details etc. were made available.

3. Notwithstanding the details and documents being provided, the impugned order dated 31 March 2023 under Section 148A(d) of the Act has been passed. It is stated in the order that the Assessing Officer ("AO") has examined whether assessment is needed and the explanation and documents submitted by assessee do not conclusively preclude the suggestion based on the information available that the income chargeable to tax has escaped assessment.

The only basis on which the order has been passed is, the assessee has not submitted the details of source of Rs.88,75,000/- paid for purchase of property by her husband, source and the details of receipt of amount from the relatives, whereas the husband's income is only Rs. 18,49,980/-.

4. Though Mr. Gupta has strongly opposed the petition, but at the end he agreed that those details have to be sought from the husband for husband's assessment and not from Petitioner herein because the AO has accepted that Petitioner has not made any payment for purchase of property.

5. We also have to notice that surprisingly the Principal Chief Commissioner of Income Tax has also accorded sanction for issuance of this order instead of directing the AO to drop the proceedings against Petitioner.

6. In the circumstances, we hereby quash and set aside the order dated 31 March 2023 passed under Section 148A(d) of the Act, because in our opinion, it is not a fit case for reopening the assessment in the case of Petitioner."

We have perused the submissions advanced by both sides in light of records placed before us.

7. This Tribunal has analysed in the present facts of the case, the issue that was questioned by the authorities below regarding the source of funds made by assessee's husband towards advances for purchase of immovable property amounting to Rs.30,50,000/- based on the bank statement furnished by the Ld.AR. The Ld.AR was asked to furnish reconciliation of the payments made through the banks to the builder which has been furnished and reproduced hereinabove.

7.1. Based on the above facts and the view taken by *Hon'ble Bombay High Court* under identical circumstances in the case of another assessee reproduced hereinabove, we do not find any reason to uphold the order passed by Ld.CIT(A). The source of the advance paid by assessee's husband categorically stands explained hereinabove from the reconciliation statement filed by Ld.AR before this *Tribunal*. In any event, the Ld.AO of assessee's husband verified necessary facts before dropping the 148 proceedings. The categorical observations of Ld.AO in assessee's husband's case are reproduced as under:-

*****This space has been left blank intentionally, P.T.O.*****



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT
COMMISSIONER OF INCOME TAX
CIRCLE 8(1)(1), MUMBAI

To,

SUBHASH NARAYAN ANBHAVANE
28/556 NEW MBPT COLONY, NADKARNI PARK WADALA
(E)
MUMBAI 400037, Maharashtra
India

PAN: ABXPA0486A	Assessment Year: 2017-18	Dated: 25/07/2022	DIN & Order No : ITBA/COM/F/17/2022-23/1044044686(1)
--------------------	-----------------------------	----------------------	---

Sir/ Madam/ M/s,

Subject: Proceedings u/s 148A(d) in consequence to Hon'ble SC Order dated 04.05.2022 - Order

1. The assessee is an individual and filed its return of income on 08.08.2017 declaring total income at Rs. 7,32,550/-. Thereafter, the return was processed u/s 143(1) of the I.T. Act, 1961 and no assessment has been made.
2. Several Writ Petitions were filed by certain assesseees before the Hon'ble Bombay High Court as well as other courts, challenging the validity of the said notices u/s 148 of the Act. Thereafter, matter reached before Hon'ble Supreme Court. The Hon'ble Supreme Court in Civil Appeal No. 3005/2022, vide order dated 04/05/2022 had directed **that notice issued u/s.148 from 01.04.2021 to 30.06.21 shall be construed or treated to be show-cause notices in terms of Section 148A(b).**
3. In compliance to the decision of Hon'ble Supreme Court, the underlying material and documents on which the show cause notice u/s.148A(b) is based was provided to the assessee vide ITBA/COM/F/17/2022-23/1043249940(1) dtd. 30/05/2022, asking him to show-cause in accordance with section 148A(b) as to why notice u/s 148 should not be issued with reference to the information as provided. The assessee was requested to furnish explanation along-with supporting document/evidence within two weeks from the date of the receipt of the above-mentioned notice.
4. **The Gist of income escaped as per original notice u/s. 148 A of the I.T.:**

In this case, information was received on 25.03.2019 via email from the I & CI,

Enclosed: Refer to attachment ABXPA0486A_2017_ATTACHMENT_100050003883.pdf

Note: If digitally signed, the date of digital signature may be taken as date of document.
ROOM NO:624,6th Floor, AAYAKAR BHAVAN, MAHARISHI KARVE ROAD, MUMBAI, Maharashtra, 400020
Email: MUMBAI.DCIT8.1.1@INCOMETAX.GOV.IN, Office Phone:02222001297

www.incometax.gov.in

Mumbai. As per the information the assessee has purchased immovable property for Rs. 46,13,239/- whereas the stamp duty valuation of the property is Rs. 1,41,62,600/- . Therefore, there is difference of Rs. 95,49,361/-. Since, Assessee has purchased immovable property for consideration which is less than the stamp duty value, therefore, this transaction attracts the provisions of section 56(2)(vii) of the Income Tax Act, 1961.

5. The assessee furnished the reply on 24.06.2022 wherein he has attached copies of agreements dated 08.09.2010 and 28.02.2017 for the property/flat which is under consideration.

6. It is noted from the agreements that the assessee purchased the flat in joint name with his wife vide agreement dated 08.09.2010 and the market value of the flat was mentioned as Rs. 46,85,016/-. Out of this amount the assessee has already paid Rs. 30,50,000/- to the builder.

However, as the time passed the rates of the property has increased and the builder has sold the same flat to one Smt. Jasintha Merry. The assessee filed complaint in consumer court vide complaint no. CC/13/120. After considering the facts the honorable court passed a decree in favor of the assessee and asked the builder to stick to old price only i.e. Rs. 46,85,016/-. In view of the above, fresh agreement was made on 28.02.2017 wherein the market value was Rs. 1,41,62,600/- and मोबदला value was Rs. 46,13,238/- (i.e. nearly the old value of the flat). In addition to that the builder has also to pay the stamp duty and registration fee as per the new agreement.

Comments of the AO:

Keeping in view it can be concluded that the assessee has paid only the amount of Rs. 46,85,016/- as per the new agreement which was the value of the flat as per the old agreement only.

After verification of the details/documents submitted by the assessee, considering the replies of the assessee and the material available on record, **I am satisfied with the fact that there is no escapement of income in this case and reopening proceedings u/s 148 are not recommended.**

7. In view of this, prior approval from the Principal Commissioner of Income Tax, Mumbai is sought to pass the order u/s. 148A(d) of the Income Tax Act, 1961.

Based on the above, this Tribunal does not find any force in the addition made by Ld.CIT(A).This *Tribunal* directs the AO to delete the addition in hands of assessee.

Accordingly, grounds raised by assessee stands allowed on merits.

8. On the legal issue, the additional grounds raised have to be considered in favour of assessee as the approving authority who granted permission to pass order u/s 148A(d) as well as the to issue notice u/s 148A(d) under the new provisions of Section 148 should have been issued by Principal Commissioner. On this count also, additional grounds raised by assessee stands allowed.

Accordingly, the additional grounds raised by assessee stands allowed.

In the result, appeal filed by assessee stands allowed.

Order pronounced in the open court on 19/01/2026

Sd/-

**(BEENA PILLAI)
Judicial Member**

Mumbai
Dated: 19/01/2026
SC Sr. P.S.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

(Asstt.Registrar)
ITAT, Mumbai