

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “F”, DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3864/DEL/2025
Assessment Year: 2017-18

Mamraj Aggarwal 4107,2 nd Floor No.215, Naya Bazar Delhi Sadar Bazar Central Delhi 110006 PAN No. ADKPA3570G	Vs.	ITO Ward- 47 (1) , Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Nikhil Goyal,CA
Respondent by	Ms. Monika Singh, CIT.DR

Date of hearing:	08/01/2026
Date of Pronouncement:	21/01/2026

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi [hereinafter referred to as “Ld. NFAC”] vide order dated 09.05.2025 pertaining to A.Y. 2017-18 arising out the assessment order dated 19.05.2023 u/s.147 r.w.s section 144B of the Income-tax Act, 1961, (in short ‘the Act’).

2. The assessee has raised the following grounds in appeal:

1. *The appellant craves leave to add, amend the grounds of appeals before the appeal is finally heard or disposed off.*
2. *That the re-opening of assessment is approved by Principal Commissioner of Income Tax (PCIT) instead of Principal Chief Commissioner of Income Tax/ Chief Commissioner of Income Tax as per requirements under section 151(ii) of the Act rendering the proceedings bad in law and liable to be quashed.*
3. *That the addition of Rs.11,67,49,280/- made by Ld. AO and upheld by Ld. CIT(A) on account of unexplained expenditure under section 69C of the Income Tax Act 1961 is bad in law since the source of expenditure was explained during the assessment proceedings.*
4. *Whether the revised provisions of section 115BBE of the Act, applicable from 01-04-2017 can be applied to the facts and circumstances of the present case.*
5. *That the Ld. CIT(A) has erred in law and on facts in confirming the order of Ld. AO based solely on the basis of the statement recorded u/s 131(1) without conducting any independent investigation.*
6. *That on the facts and circumstances of the case, the Ld. CIT(A) has erred in confirming the addition made by Ld. AO both on facts and in law in deciding the quantum of addition on account of bogus purchases without discrediting the corresponding sales making the disallowance arbitrary and unsustainable.*
7. *That the Ld. CIT(A) as well as ld. AO erred in relying upon documents/statements seized from a third party which are not binding on the assessee and cannot form the basis of addition in the absence of any incriminating material found.*
8. *That the impugned order under section 250 of the Act has been passed in violation principles of Natural Justice.*

3. The brief facts of the case are that the assessee is engaged in the trading business of edible items like paddy, wheat aata, suji, besan, etc. The assessee filed the return of income for the A.Y.2017-18 on 05-02-2018 under section 139 of the Act, declaring total income at Rs.4,15,420/-. As per information available with the department, it was noticed that one Sh. Ashok Kumar Gupta was engaged in providing accommodation entries in lieu of purchases and sales to various parties during the A.Y.2017-18. Sh. Ashok Kumar also stated the modus operandi of giving non-genuine entries to various parties and has admitted on oath there were no underlying physical transactions and these trades were just entries provided to beneficiaries to enable them to book bogus purchases and sales in their books. The assessee is one of the beneficiaries of accommodation entries provided by the entities controlled and managed by Sh. Ashok Kumar Gupta and has booked non genuine /bogus sales in his books of accounts to tune of Rs.11,16,49,280/-. Notice under section 148 of the Act dated 13-04-2021 was issued to the assessee. Further in the compliance of the Hon'ble Supreme Court decision, show cause notice dated 25-05-2022 u/s 148A(b) of the Act was issued. After considering the reply submitted by the

assessee, the Assessing Officer completed the assessment after making the addition of Rs. 11,67,49,280/- under section 69C of the Act.

4. Aggrieved by the order of the AO the assessee filed the appeal before the Ld. NFAC, who vide his order dated 09-05-2025 dismissed the appeal. Being aggrieved by the order of the Ld. NFAC the assessee is in appeal before the Tribunal.

5. Ld. Counsel for the assessee has raised the legal ground no.2 and stated that first notice u/s 148 was issued on 13-04-2021 for the A.Y. 2017-18 under the old reassessment tax regime, however due to the introduction of new reassessment tax regime from 01-04-2021 and in the compliance of the Hon'ble Supreme Court Order in the case of Ashish Agarwal notice u/s 148A(b) of the Act notice was issued on 25-05-2022 and consequent order under section 148A(d) of the Act on 18-07-2022 was issued. The case of the assessee relates to the A.Y. 2017-18 and the notice /order was issued on 18-07-2022 after a period of three years from the end of the relevant assessment Year, the sanctioning authority should have been Principal Chief Commissioner or Principal Director General or Chief commissioner but in this case the approval has been

obtained from the Pr. Commissioner of Income Tax, which is not the competent authority to grant the permission. This issue is squarely covered by the Judgement of Hon'ble Jurisdictional Delhi High Court in the case of Communist Party of India (Maxist) V. CIT(Ex) WP 9031/2023 dated 28-04-2025 and the case of M/s Genpact India Holdings ITA NO.1527/Del/2024. Reliance is placed on the followings decisions:

- (i) Deputy Commissioner of Income –tax v. Rudra Buildwell Homes (P.) Ltd.[2025] 178 taxmann.com 55(Delhi-trib)
- (ii) Assistant Commissioner of Income Tax-15(3)(2) Mumbai v. Surya Ferrous Alloys Pvt. Ltd. ITA No.1406/MUM/2024
- (iii) Ramesh Bachulal Mehta v. Income Tax Officer [2025] 177 taxmann.com 606 (Bombay)
- (iv) Bhagwan Sahai Sharma v. Deputy Commissioner of Income tax, Circle 13-(1) Delhi and Anr. W.P.(C) 3220/2023 (High Court of Delhi)
- (v) H and M Hennes and Mauritz retail Private Limited v. The assistant Commissioner of Income Tax, circle 10 (1) New Delhi W.P.(C) 4848/2023 and CM APPL. 18711/2023 (High Court of Delhi)

6. In the case of Assistant Commissioner of Income Tax - 15(3) (2) Mumbai v. Surya Ferrous Alloys Pvt. Ltd. ITA No.

1406/Mum/2024 and CO No. 77/Mum/2024 (AY 2017-18)

the Co-ordinate bench held as under:

“8. We find that in a recent decision by the Hon'ble Supreme Court in the case of *Union of India and other Vs. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC), dated 03.10.2024, Hon'ble Court after the fall out of its own decision in the case of *Ashish Agarwal* (supra) had dealt with the issue in respect of sanction of the specified authority and concluded that TOLA will extend the time limit for the grant of sanction by the authority specified u/s.151. According to the Hon'ble Court, the test to determine whether TOLA will apply to section 151 of the new regime is that if the time limit of three years from the end of the Assessment Year falls between 20.03.2020 and 31.03.2021 then, the specified authority u/s.151(i) has extended time till 30.06.2021 to grant the approval. According to the Hon'ble Court, Assessing Officers were required to issue the re-assessment notice u/s.148 of the new regime within the time limit surviving under the Act read with TOLA.

All notices issued beyond the surviving period are time barred and liable to be set aside. Hon'ble Court had elaborately dealt with this issue in Part E of its decision in para 73 to 78 which are extracted below:

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. 128 A table representing the prescription under the old and new regime is set out below:

<i>Regime</i>	<i>Time limits</i>	<i>Specified authority</i>
<i>Section 151(2) of the old regime</i>	<i>Before expiry of four years from the end of the relevant assessment year</i>	<i>Joint Commissioner</i>
<i>Section 151(1) of the old regime</i>	<i>After expiry of four years from the end of the relevant assessment year</i>	<i>Principal Commissioner or Chief Commissioner or Principal Commissioner of Commissioner</i>
<i>Section 151(i) of the 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 Commissioner or Chief Commissioner or Principal Director General or Chief Commissioner of Director General</i>

74. The above table indicates that the specified authority is directly co-related 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, noncompliance 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 pre-conditions 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 years 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.....

81. This quote in Ashish Agrawal (supra) directed the Assessing Officers to “pass orders in terms of Section 148-A(d) in respect of each of the assessee concerned.” Further, it directed the Assessing Officers to issue a notice u/s.148 of the new regime “after following the procedure as required u/s.148-A.”

Although this quote waived off the requirement of obtaining prior approval u/s.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 u/s. 148A(d) or issuing a notice u/s.148.

These notices ought to have been issued following the time limits specified u/s.151 of the new regime r.w. TOLA, where applicable....

114.

.....d. TOLA will extend the time limit for the grant of sanction by the authority specified u/s.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 u/s.151(i) has extended time till 30 June 2021 to grant approval; ...”

8.1. From the above, we note that in para 73, in the table last two rows relate to provisions of Section 151(i)(ii) of the new regime prescribing the time limit as well as the specified authority. In para 75, it is very categorically mentioned by the Hon’ble Court that after 01.04.2021, in terms of Ashish Agrawal (supra) the prior approval must be obtained from the appropriate authorities specified u/s.151 of the new regime. This abundantly brings clarity on the aspect of obtaining approval for issue of notice u/s.148 which are fall out of the decision in Ashish Agrawal (supra). In para 77, objective of section 3(1) of TOLA is mentioned which is to relax the time limit for

compliance with actions that fall for completion from 20.03.2020 to 31.03.2021. Thus, the objective is specific for providing temporal flexibility. In para 78, the same has been explained by an example taking Assessment Year 2017-18 which also in specific terms mentions that the authority specified u/s.151(i) of the new regime can grant sanction till 30.06.2021. Thus, while concluding in para 81 on the issue obtaining approval, Hon'ble Court has specifically stated that the Assessing Officer is required to obtain prior approval of the specified authority according to section 151 of the new regime before passing an order u/s.148A(d) or issuing a notice u/s.148. According to the Hon'ble Court, though it had waived off the requirement obtaining prior approval u/s.148A(a) and Section 148Ab, it did not waive the requirement for section 148A(d) and Section 148.

8.2. Taking into consideration the submissions made by the ld. Sr. DR and keeping the same in juxtaposition with the above observations and findings of the Hon'ble Court, we note that the issue we are presently addressing raised before us is not on the aspect of "when" for the procedural compliance for issuance of notice u/s.148 but on the aspect of "by whom" it ought to have been issued. Ld. Sr. DR has contended that there is hierarchical escalation vis-à-vis obtaining approval for issuing notice u/s.148. In this respect, Hon'ble Court has very categorically held in para 75 that the prior approval must be obtained from the appropriate authorities specified u/s.151 of the new regime for the notices issued in terms of Ashish Agrawal (supra) after 01.04.2021. Reference by ld. Sr. DR to Section 149(1)(a) deals with time limit for issuing notice u/s.148. Contention of the ld. Sr. DR that there is no hierarchical escalation for obtaining prior approval for issuing notice u/s.148 is not in coherence with the guidelines mandated by the Hon'ble Apex Court as enunciated above. Repeatedly, Hon'ble Court has stated including by way of illustration that TOLA extends time line from the old regime which survives making the notice validly issued subject to the approval requirements of Section 151 under the new regime. Accordingly, the prior approval requirement is mandated under the section 151 of new regime.

8.3. In the present case, the relevant Assessment Year is 2017-18 and the time limit of three years lapsed on 31.03.2021 which falls between 20.03.2020 and 31.03.2021 during which provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) would apply. Accordingly, the amended provisions under the Act read with TOLA extended the time limit for granting of approval till 30.06.2021 by the specified authority. Thus, on the above stated facts and law, in the present case, three years had lapsed from the end of the Assessment Year when the order u/s.148A(d) and notice u/s.148 was issued on 30.07.2022. In the present case, since the notice u/s. 148 and order u/s. 148A(b) have been issued beyond the period of three years from the end of the relevant Assessment Year, case of the assessee falls within the provisions of section 151(ii) of the amended law whereby the specified authority for grant of approval is specified as Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. Contrary to this requirement, the approval obtained is by Principal Commissioner of Income Tax-17, Mumbai. Accordingly, since a proper sanction by the specified authority had

not been obtained for issue of notice u/s.148 under the applicable provisions of law, said notice is invalid and bad in law.”

6. The Ld. CIT. DR has relied upon the orders of the lower authorities and submitted that the notice/ order was issued after taking the prior approval from the authority as per the directions of the Hon’ble Supreme Court in the case of Ashish Agarwal [2022] 444 ITR 1 SC. In the present case the notice was issued on 25-05-2022 for the A.Y. 2017-18 from the prior approval of the Pr. Commissioner, without, the approval of the authority specified u/s 151 of the Act. The notice was issued beyond the period of three years from the end of the relevant assessment year, thus in term of section 151(ii) of the Act the sanction 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. Respectfully following the decision of the Hon’ble High Cort and the Co-ordinate Bench we quashed the reassessment order dated 19-05-2023 and accordingly allow the appeal of the assessee.

7. Since we have already allowed the appeal of the assessee on legal ground, thus, other grounds have become academic and keep them open for adjudication.

8. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 21.01.2026.

Sd/-

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER
SR Bhatnagar

(SUDHIR KUMAR)
(JUDICIAL MEMBER)

Date: 21.01.2026

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT DELHI