

IN THE INCOME TAX APPELLATE TRIBUNAL

"H (SMC)" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.6190/MUM/2025
(Assessment Year 2017-18)

Sudhir Motiram Patil

C/o Hukumchand Jain, 16th Floor, D Wing,
Trade World Kamala Mills Compound,
Senapati Bapat Marg, Lower Parel,
Mumbai, Maharashtra - 400013
PAN: AVVPP1813G

..... Appellant

v/s

Income Tax Officer, Ward-3(2),

Rani Mansion, Murbad Road,
Kalyan,
Maharashtra - 421301

..... Respondent

Assessee by : Shri Himanshu Gandhi, CA
Revenue by : Shri Pravin Salunkhe, Sr.DR

Date of Hearing - 28/01/2026

Date of Order - 30/01/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 10/07/2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2017-18.

2. In this appeal, the assessee has raised the following grounds: -

"1. On the facts and circumstances of the case and law, the Ld CIT(A) erred in confirming reopening of assessment u/s. 147 of Income Tax Act, 1961 which is bad-in-law and required to be quashed.

2. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming reopening of assessment without considering the fact that the proceedings for AY 2017-18 are time barred as per section 149(1)(b) of Income Tax Act, 1961.

3. On the facts and circumstances of the case and law, the Ld CIT(A) erred in confirming reopening of assessment without considering the fact that the notice for reopening u/s 148 was issued by Jurisdictional assessing officer which is in violation of Faceless Assessment Scheme formulated under section 151A of Income Tax Act. 1961.

4. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming issue of notice u/s. 148 without considering the fact that the notice issued without mentioning DIN number on notice which is in violation of CBDT Circular No. 19 of 2019 dated 14.08.2019.

5. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming issue of notice u/s 148 without obtaining proper approval from appropriate authority under section 151 of Income Tax Act, 1961.

6. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition of Rs. 5,63,422/- u/s 69A of Income Tax Act, 1961 for the cash deposit during the demonization period without considering the fact that the cash was deposited out of appellant's mother and wife accumulated STRIDHAN, appellant's own emergency funds and savings accumulated.

7. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in levying tax under the provisions of section 115BBE of Income Tax act, 1961 on addition made under section 69A of Income Tax Act, 1961.

8. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in levying penalty u/s.271AAC(1) of the Income Tax Act, 1961.

9. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in charging interest u/s.234A, 234B, 234C & 234D of the Income Tax Act, 1961."

3. During the hearing, the learned Authorized Representative ("learned AR"), at the outset, submitted that the sanction of the appropriate authority under section 151 of the Act was not sought prior to issuance of notice under section 148 of the Act. The learned AR submitted that in addition to the above, the notice issued under section 148 of the Act, in the present case, is also

beyond the limitation period specified under section 149(1) of the Act, and thus, on this basis also, the assessment order passed under section 147 read with section 144B of the Act is *void ab initio*.

4. The brief facts of the case are that the assessee is an individual and for the year under consideration filed his return of income on 06/06/2017, declaring a total income of Rs. 9,06,430. Subsequently, on the basis of the information received during the scrutiny assessment proceedings of the assessee's wife that the cash of Rs. 26 lakh deposited in joint bank account belongs to the assessee and the same were not shown in the return of income filed by the assessee for the year under consideration, and thus the source of cash deposit remained undisclosed and unexplained in the hands of the assessee, the Assessing Officer ("AO") issued notice under section 148 of the Act on 18/05/2021.

5. Subsequently, in view of the decision of the Hon'ble Supreme Court in Union of India vs. Ashish Agrawal reported in (2022) 444 ITR 1 (SC), the original notice issued under section 148 of the Act on 18/05/2021 was deemed to be issued under section 148A(b) of the Act. Vide show cause notice dated 27/05/2022, the information and material relied upon by the Revenue were provided to the assessee and time was granted to the assessee to respond to the same within two weeks in terms of provisions of section 148A(b) of the Act.

6. Rejecting the objections filed by the assessee, an order under section 148A(d) of the Act was passed on 26/07/2022 declaring that it is a fit case

for issuance of notice under section 148 of the Act. Thereafter, on the same date, i.e. on 26/07/2022, notice under section 148 of the Act was issued by the Jurisdictional Assessing officer. After considering the submissions of the assessee filed during the reassessment proceeding, the AO passed the order dated 11/04/2023 under section 147 read with section 144B of the Act assessing the total income of the assessee at Rs. 35,06,420, after making an addition of Rs.26 lakh, being the cash deposited in the joint bank account of the assessee maintained with his wife.

7. The learned CIT(A), vide impugned order, granted partial relief to the assessee and sustained the addition only to an extent of Rs.5,63,422. Being aggrieved, the assessee is in appeal before us.

8. We have considered the submissions of both sides and perused the material available on record. Before proceeding further, it is essential to note the provisions of the Act that are relevant to the issue at hand. The relevant provisions of section 148 of the Act, as amended by Finance Act 2021, read as follows: –

"148. Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within a period of three months from the end of the month in which such notice is issued, or such further period as may be allowed by the Assessing Officer on the basis of an application made in this regard by the assessee, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice:

Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section:

.....

Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.”

9. Therefore, as per the first proviso to section 148 of the Act, it is evident that for issuing notice under the section, the AO is required to obtain prior approval of the Specified Authority. The second proviso to section 148 further provides that no such approval shall be required where the AO, with the prior approval of the Specified Authority, has passed the order under section 148A(d) of the Act. Further, Explanation 3 clarifies that the Specified Authority for the purpose of section 148 shall be the Specified Authority as referred to in section 151 of the Act.

10. Further, section 151 of the Act deals with the Specified Authority for section 148 and section 148A of the Act, and the same reads as follows: –

"151. Specified authority for the purposes of section 148 and section 148A shall be,—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.”

11. Therefore, from the plain reading of section 151 of the Act, it is evident that in case where more than three years have elapsed from the end of the relevant assessment year, the Specified Authority for the purpose of granting prior approval, as required under section 148 of the Act, is Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

12. As per the assessee, in the present case, the period of three years from the end of the relevant assessment year, i.e., 2017-18, expired on 31.03.2021 and even if the extension granted by the Taxation and Other Laws (Regulations and Amendment of Certain Provisions) Act, 2020 (*“the TOLA”*) is granted, the Specified Authority as per the provisions of section 151(i) of the Act, after its amendment by the Finance Act, 2021 could have granted the approval only till 30/06/2021. However, in the present case, the necessary approval, as per the provisions of section 151, for passing the order under section 148A(d) of the Act, was obtained after the aforesaid date from the Principal Commissioner of Income Tax. Accordingly, as per the assessee, the Revenue has not followed the mandatory provisions of the Act while initiating the reassessment proceedings, and the sanction of the Specified Authority is not in conformity with the law prevalent at the time of grant of sanction.

13. We find that while deciding a similar issue, the Hon’ble Jurisdictional High Court in *Alag Property Construction (P.) Ltd. vs. ACIT*, reported in [2025] 179 taxmann.com 578 (Bombay), after considering the decision of the Hon’ble Supreme Court in *Union of India & Ors. v. Rajeev Bansal*, reported in (2024) 469 ITR 46 (SC), held that after the expiry of three years from the end of the

relevant assessment year, the Specified Authority as per the provisions of section 151 of the Act is Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. The relevant findings of the Hon'ble High Court, in the aforesaid decision, are reproduced as follows:-

"8. On bare reading of the above extract of the judgment of the Hon'ble Supreme Court in the case of Rajeiv Bansal (supra), we find that the Hon'ble Supreme Court had clarified as under:

(a) Under the substituted provisions of re-assessment as introduced by the Finance Act, 2021, the Assessing Officer is required to obtain prior approval or sanction of the 'specified authority' at four stages - at the first stage under Section 148A(a), at the second stage under Section 148A(b), at the third stage under Section 148A(d), and at the fourth stage under Section 148. In the case of Ashish Agarwal (supra) the Hon'ble Supreme Court waived off the requirement of obtaining prior approval under section 148A(a) and Section 148A(b) of the Act only. 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 for issuing a notice under Section 148.

(b) Under the new regime, if income escaping assessment is more than Rupees 50 lakhs, a reassessment notice could be issued after the expiry of three years from the end of the relevant previous year only after obtaining the prior approval of the Principal Chief Commissioner or the Principal Director General or the Chief Commissioner or the Director General.

(c) Section 151(ii) of the new regime prescribes an approval of a higher 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 vitiates their jurisdiction to issue a notice under section 148.

(d) Grant of sanction by the specified authority is a precondition for the assessing officer to assume jurisdiction under section 148 to issue a reassessment notice.

9. In the present case, the period of three years from the end of the A.Y. 2017-18 fell for completion on 31st March 2021. As the expiry date fell during the time period of 20th March 2020 and 31st March 2021, under Section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short "TOLA"), the authority specified under Section 151(i) of the new regime could have granted sanction only till 30th June 2021.

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(i) 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(i) 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 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.

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."

14. From the perusal of the order dated 26/07/2022 passed under section 148A(d) of the Act, which forms part of the paper book from pages 7-10, we find that the same was issued after seeking approval from Principal Commissioner of Income Tax – 1, Thane. Furthermore, the three-year period from the end of the relevant assessment year, i.e., 2017-18, as extended by the provisions of the TOLA, also expired in the present case on 30/06/2021.

15. Therefore, respectfully following the decision of the Hon'ble Jurisdictional High Court in Alag Property Construction (P.) Ltd. (supra), we

are of the considered view that notice under section 148 of the Act issued on 26/07/2022 is in contravention of the provisions of section 151 of the Act, as the sanction of the concerned Specified Authority was not obtained. Accordingly, we are of the considered view that the notice issued under section 148 of the Act is void *ab initio* and bad in law and therefore is quashed. Consequently, the entire reopening proceedings and assessment order passed under section 147 read with section 144B of the Act are also quashed.

16. We further find that the income which has been alleged to have escaped assessment, in the present case, is only Rs. 26 lakh. As per the provisions of section 149 of the Act, no notice under section 148 of the Act shall be issued after the expiry of three years from the end of the relevant assessment year. The provisions of section 149(1)(b) of the Act provides an exception and states that notice under section 148 of the Act can be issued after three years, but not after ten years, from the end of the relevant assessment year, where, inter-alia, the income chargeable to tax, which has escaped assessment amounts to or is likely to amount to Rs.50 lakh or more. Therefore, since the income which has been alleged to have escaped assessment is less than Rs.50 lakh and notice under section 148 of the Act was issued after three years from the end of the relevant assessment year in the present case, on this basis also the notice issued under section 148 of the Act is void *ab initio*, being barred by limitation, and is bad in law.

17. Since the relief has been granted to the assessee on the aforementioned jurisdictional aspects, the other grounds raised by the assessee in the present

appeal on merits as well as on jurisdiction are rendered academic and, therefore, are kept open.

18. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 30/01/2026

Sd/-
GIRISH AGRAWAL
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 30/01/2026

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai.