

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2283/PUN/2025
निर्धारण वर्ष / Assessment Year : 2018-19

Babasaheb Sahebarav Jagdale, Masanarwadi Lingali Daund, Pune- 413801. PAN : ACXPJ0466G	Vs.	Assessment Unit, Income Tax Department.
Appellant		Respondent

Assessee by : Shri Rajkumar Doshi
Revenue by : Smt. Neha Thakur (Virtual)

Date of hearing : 20.01.2026
Date of pronouncement : 30.01.2026

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 01.08.2025 passed by Ld. CIT(A)/NFAC for the assessment year 2018-19.

2. The appellant has raised the following grounds of appeal :-

*"The following grounds are taken without prejudice to each other-
On the facts of and in law*

1. *The Learned CTT(A) has erred both in facts as well as law in not considering the submission of Appellant and not deciding the*

appeal on the merit holding "As per the guidelines under the scheme of faceless assessment and the implementation of section 148A/151 of the Act, during the relevant year the AO obtained administrative statutory approval from the Pr. Chief Commissioner of Income Tax in this case, who as per the standardized organizational hierarchy and as per the warrant of precedents has superlative position and higher position in seniority, it will be legally imprudent, non-tenable and misplaced interpretation of law to adjudicate the instant appeal and legal ground enumerated therein."

The Learned CTT (A) failed to understand that the appeal was against order u/s 147 r.w.s. 144B (and not under 148(A)(d)) passed by the Assessing Officer and Appellant had correctly filed Appeal before CIT(A) as per clause (b) Sec 246A of the IT Act, 1961. The Learned CIT(A) further erred to hold that Appellant should have filed Appeal to ITAT.

2. *Without prejudice to Ground 1., The Assessment Order passed u/s 147 r.w.s. 144B of the IT Act, 1961 is bad in law, illegal and not tenable on various grounds:*
 - a. *The proceedings have been initiated, order u/s 148A(d) and notice u/s 148A(b) and 148 have been issued by Jurisdictional Assessing Officer and not by Faceless Assessing Officer as required by section 151A of IT Act, 1961 and CBDT scheme for faceless reassessment dated 29/03/2022 and are bad in law, & void-ab-initio as held by Jurisdictional Bombay High Court in Hexaware Technology.*
 - b. *The Learned Assessing Officer erred both in facts as well as in law in considering entire cash withdrawal as unexplained investment u/s 69 and in treating it as undisclosed income. The information of cash withdrawal from bank does not suggest escapement of income liable to tax and assessing officer does not have any information suggesting escapement of income and the notice under section 148 and the order under section 146A(d) & 147 r.w.s. 144 of ITA, 1961 are bad in law, illegal and not tenable. Appellant prays your Honour to quash the assessment proceedings.*
 - c. *Without prejudice to Ground no. 2(b), the Learned Assessing Officer erred both in facts as well as in law in not reducing income of Rs. 3,48,988/- declared by the Assessee from Rs. 1,49,56,200/- as per the Assessment Order.*

- d. *The Learned Assessing Officer has reopened the Assessment on borrowed satisfaction of various portals and without independent application of his own.*
 - e. *Copy of the approval given by the prescribed authority under section 151A was not enclosed along with order under section 148A(d) and notice under section 148, which is in violation of CBDT guidelines and various judicial pronouncement and accordingly the same should be quashed.*
3. *Without prejudice to any of the above grounds the Appellant would like mention that the Cash Withdrawal does not per se suggest that it is income earned by the Appellant and accordingly treating the entire cash withdrawal as income is not correct.*
 4. *The Appellant request for admission of additional evidence if any requires in support of above grounds of appeal.*
 5. *The appellant craves, leave to add, alter, amend or delete any of the grounds of appeal.”*

3. Facts of the case, in brief, are that the assessee is an individual and has not furnished his return of income for the year under consideration. On the basis of information available with the Department that the assessee has made huge cash withdrawal totalling to Rs.1,49,56,200/- from his current account maintained with Bank of Maharashtra but has not filed its return of income for the relevant year, the case of the assessee was reopened and notice u/s 148 was issued to the assessee. In response to this notice, the assessee furnished its return of income declaring total income of Rs.3,48,990/- on a turnover of Rs.1,62,93,538/-. Subsequently,

notice u/s 142(1) and show-cause notice u/s 144 was issued to the assessee since the assessee remained non-compliant, the Assessing Officer vide order dated 12.02.2024 completed the assessment proceedings u/s 147 r.w.s. 144 r.w.s. 144B of the IT Act by determining total income at Rs.1,49,56,200/-.

4. Being aggrieved with the above assessment order, the assessee preferred an appeal before Ld. CIT(A)/NFAC. Since in the memo of appeal the assessee mentioned date of order as 31.01.2023 which was the date of order passed u/s 148A(d) instead of date of order 12.02.2024 which was passed u/s 147 of the IT Act, Ld. CIT(A)/NFAC dismissed the appeal by observing as under :-

“5.5 During the assessment proceedings show cause notice u/s 148A(b) along with questionnaire was issued to the assessee after taking prior approval of the Pr. Chief Commissioner of Income Tax, Pune who being the competent authority has approved the proceeding u/s 148A(d) and therefore the AO was empowered to proceed with the completion of the re-assessment proceedings. Accordingly, the AO issued order under clause(d) of section 148A of the Income Tax Act, 1961 empowering the taxpayer to provide an explanation to the income tax department regarding income that escaped assessment. As it is understood from the scheme of provisions of that Act that it safeguards the rights to taxpayers to get an opportunity to furnish explanation to the AO the assessing before issue of notice u/s 148 of the Act. As per the guidelines under the scheme of faceless assessment and the implementation of section 148A/151 of the Act, during the relevant year the AO obtained administrative/statutory approval from the Pr. Chief Commissioner of Income Tax in this case, who as per the standardized organizational hierarchy and as per the warrant of precedents has superlative position and higher position in seniority, it will be legally imprudent, non-tenable and misplaced interpretation of law to

adjudicate the instant appeal and legal ground enumerated therein. As it is understood considering the provisions of the Act and also following the principle of consistency, the proper appellate forum for the appellant to peruse its case on this issue before the Hon'ble ITAT. It is also a fact that it is legally binding and customary for taxpayer to file appeal before the ITAT whenever the PCIT passes an adversarial Order u/s 263 of the Act. Similarly on the same lines appeal in the instant case would legally lie before the Income Tax Appellate Tribunal to decide such type of case which has binding and statutory approval of the Income Tax Officer higher in rank than an officer of the rank of Commissioner of Income Tax. Accordingly, considering the above deliberation and examination of facts of the case as well as records, in my considered view, the instant appeal against Order u/s 148A(d) dated 31/01/2023 is held to be unsustainable, non-est and therefore, ground of appeal is dismissed.

6. In the result, appeal is dismissed. Order passed under section 250 read with section 251 of the Act.”

5. It is the above order against his the assessee is in appeal before this Tribunal.

6. We have heard Ld. counsels from both the sides and perused the material available on record including the paper book furnished by the assessee. In this regard, we find that admittedly the assessee by mistake in Form No.35 the first appeal memo has mentioned the date of order as 31.01.2023 instead of 12.02.2024. On the basis of this wrong date which pertains to order passed u/s 148A(d), Ld. CIT(A)/NFAC presumed that the appeal is filed against the order passed u/s 148A(d) of the IT Act and not against the assessment order passed u/s 147 of the IT Act.

7. In this regard, it was the contention of Ld. counsel of the assessee that the first appeal was filed against the assessment order passed u/s 147 of the IT Act which is an appealable order and certainly not against the order passed u/s 148A(d) of the IT Act as presumed by Ld. CIT(A)/NFAC. Accordingly, it was prayed before the bench to set-aside the order passed by Ld. CIT(A)/NFAC and direct Ld. CIT(A)/NFAC to decide the appeal afresh by treating it as filed against assessment order passed u/s 147 of the IT Act. The Ld. DR has not raised any objection to the above request of the assessee.

8. Considering the totality of the fact of the case and in the interest of justice and without going into merits of the case, we deem it appropriate to set-aside the order passed by Ld. CIT(A)/NFAC and restore the matter back to his file with a direction to decide the appeal afresh and as per fact and law by treating the same as filed against the order passed u/s 147 of the IT Act. Needless to say that Ld. CIT(A)/NFAC shall provide reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard and to produce relevant

documents/submissions/evidences, if any, in support of all the grounds of appeal raised before us without taking any adjournment under any pretext, otherwise Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 30th day of January, 2026.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th January, 2026.

Sujeet

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, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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