

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

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**I.T.A. No. 5966/Mum/2025
A.Ys: 2016-17**

ITO, Ward – 13(2)(1) Room No. 147, 1 st Floor, Aayakar Bhavan, MK Road, Mumbai – 400 020	Vs .	M/s SKA Sales Pvt Ltd B/102, Gokul view Chs, Thakur Complex, Kandiwali (E), Mumbai – 400101. PAN – AAUCS9824R
(Appellant)		(Respondent)

**CO. No. 26/Mum/2026
(Arising out of ITA No. 2883/Mum/2025)
A.Ys: 2016-17**

M/s SKA Sales Pvt Ltd B/102, Gokul view Chs, Thakur Complex, Kandiwali (E), Mumbai – 400101. PAN – AAUCS9824R	Vs .	ITO, Ward – 13(2)(1) Room No. 147, 1 st Floor, Aayakar Bhavan, MK Road, Mumbai – 400 020
(Appellant)		(Respondent)

Appellant by	Shri Prakash Jhunjhunwala
Respondent by	Ms. Kavitha Kaushik, Sr. DR

Date of Hearing	20.01.2026
Date of Pronouncement	29.01.2026

ORDER

PER Bench:

The present appeal has been filed by the revenue and cross objection filed by the assessee challenging the order dt. 02.07.2025 passed under section 250 of the Income Tax

Act, 1961 ('the Act'), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment years 2016-17.

2. Since all the issues involved in the present appeal and cross objection are common and identical and belongs to one assessee therefore, they have been clubbed, heard together and consolidated order is being passed. Firstly we shall take **ITA No. 5966/Mum/2025, A.Y 2016-17** as lead case and facts narrated therein.

ITA No. 5966/Mum/2025, A.Y 2016-17

The revenue has raised the following grounds of appeal:

1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in quashing the re-assessment proceedings by holding that the sanction for issuance of notice under Section 148 of the Income Tax Act, 1961 (the Act) was not obtained from the proper authority as per Section 151 of the new regime.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) failed to appreciate that the notice under Section 148 of the Act, originally issued on 23.04.2021, was validly issued within the extended time limits provided by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) read with various notifications, and in light of the Hon'ble Supreme Court's decision in the case of Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64 (SC).

3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in holding that the provisions of Section 151 (ii) of the new regime applied to the facts of the case, thereby requiring approval from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, ignoring the fact that the initiation of proceedings was within the ambit of the extended period where the approval of Principal Commissioner of Income Tax was sufficient, especially considering the deeming fiction

created by the Hon'ble Supreme Court in Ashish Agarwal (supra).

4. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) failed to appreciate that the Hon'ble Supreme Court's decision in Union of India and others Vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC), dated 03.10.2024, relied upon by the Ld. CITYA), specifically states that TOLA extends the time limit for grant of sanction by the authority specified under Section 151, and the test for applicability of TOLA to Section 151 is if the three- year time limit from the end of the assessment year falls between 20.03.2020 and 31.03.2021, in which case the specified authority under Section 151(i) has extended time till 30.06.2021 to grant approval.

5. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have considered that for Assessment Year 2016-17, the three- year time limit from the end of the assessment year lapsed on 31.03.2020, falling within the period 20.03.2020 and 31.03.2021, thereby attracting the provisions of TOLA which extended the time limit for granting of approval till 30.06.2021 by the specified authority under Section 151(i).

6. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in not considering that the approval for the order under Section 1484(d) and notice under Section 148, which were issued on 30.06.2022, was obtained from PCIT-5, Mumbai on 30.06.2022, and earlier approval was also taken from PCIT on 19.04.2021 for the original notice, which was in compliance with the then applicable provisions and the directions of the Hon'ble Supreme Court in Ashish Agarwal (supra)

3. All the grounds raised by the assessee are interrelated and interconnected and relates to challenging the order of Ld. CIT(A) in quashing the reassessment proceedings initiated by the AO. Therefore, we have decided to adjudicate these grounds through the present consolidated order.

4. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records we noticed that Ld. CIT(A) had dealt these grounds in detail after evaluating the factual position and the operative portion of the order of Ld. CIT(A) is containing in para 6 and the same is reproduced herein below:

6. Decision I have gone through the facts of the case. The brief facts of the case are that the appellant company filed its return of income for the A.Y. 2016-17 on 29.09.2016, declaring total income of Rs. 1,84,180/-.

In this case, an information has been received from the DDIT(Inv), Unit-4(3), Mumbai on the module of INSIGHT PORTAL. As per information, a Search & Seizure action was carried out in the case of One World Group on 06.11.2019. Shri Urvil Jani and Shri Manoj Khushalani were found to be the key persons who managed and controlled the affairs of the One World Group. It was detected that One World Group was engaged in the business of providing accommodation entries only. Further, during the course of search proceedings, statement of Shri Rajesh Mehta was recorded. In the statement, Shri Rajesh Mehta provided details of 13 entities, including Artlink Vintrade Ltd. and Basant Marketing Ltd., managed by him. He admitted in his statement that he has provided bogus entries to entire One World Group and Urvil Jani and Pittie Group. The appellant company is one of the beneficiaries who had made bogus purchases amounting to Rs. 4,46,80,000/- from the following parties: Artlink Vintrade Ltd. (AACCA1533H) Rs. 3,71,80,000/- Basant Marketing Ltd. (AABCB3077A) Rs. 75,00,000/-.

Based on the information received as above, the AO had issued a notice under the old provisions of section 148 of the Act on 19.04.2021 after obtaining the approval from the appropriate authority. Subsequently, as per the directions of the Hon'ble Supreme Court in the case of Union of India vs Ashish Agarwal, the notice issued u/s. 148 was treated as the notice u/s

148A(b) and the AO had also provided the reasons for the issuance of the said notice on 19.05.2022. The appellant had responded to the said notice on 30.05.2022. The AO, thereafter, passed the order u/s 148A(d) on 30.06.2022 and issued a notice u/s 148 of the Act on 30.06.2022 itself. In the said notice issued u/s 148 of the Act, the AO had mentioned that this notice was issued after obtaining the prior approval of the PCIT -5, Mumbai.

In a landmark 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/s151. 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/s151(i) has extended time till 30.06.2021 to grant the approval. According to the Hon'ble Court, AOs were required to issue the re- assessment notice u/s148 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. A table representing the prescription under the old and new regime is set out below:

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, 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 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 Court 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/s148 of the new regime "after following the procedure as required u/s148-A." Although this quote waived off the requirement of obtaining prior approval u/s148A(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/s148. These notices ought to have been issued following the time limits specified u/s151 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/s151. 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/s151(i) has extended time till 30 June 2021 to grant approval; ..."

From the above, it is noted 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/s151 of the new regime. This abundantly brings clarity on the aspect of obtaining approval for issue of notice u/s148 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/s151(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 AO is required to obtain prior approval of the specified authority according to section 151 of the new regime before passing an order u/s148A(d) or issuing a notice u/s148. According to the Hon'ble Court, though it had waived off the requirement obtaining prior approval u/s148A(a) and Section 148Ab, it did not waive the requirement for section 148A(d) and Section 148.

The issue in this case is not on the aspect of "when" for the procedural compliance for issuance of notice u/s148 but on the aspect of "by whom" it ought to have been issued. In the new

regime, there is hierarchical escalation vis- à-vis obtaining approval for issuing noticeu/s148. 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/s151 of the new regime for the notices issued in terms of Ashish Agrawal (supra) after 01.04.2021.

In the present case, the relevant assessment year is 2016-17 and the time limit of three years lapsed on 31.03.2020 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/s148A(d) and noticeu/s148 was issued on 30.06.2022. In the present case, since the notice u/s 148 and order u/s148A(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-5, Mumbai. Accordingly, since a proper sanction by the specified authority had not been obtained for issue of notice u/s148 under the applicable provisions of law, said notice is invalid and bad in law.

Keeping in juxtaposition the undisputed and the uncontroverted facts as stated above and the judicial precedent of the Hon'ble Supreme Court in the case of Ashish Agarwal and Rajiv Bansal (supra), it is inferred that sanction by specified authority has not been obtained by the AO in accordance with the provisions contained in section 151 of the Act under the new regime, since notice u/s148 has been issued beyond three years from the end of the relevant assessment year. Accordingly, the said notice issued is invalid.

In view of the above said findings, it is inferred that the notice issued u/s 148 as well as order passed u/s 148A(d) of the Act

are bad in law and cannot be sustained. Consequently, the proceedings u/s147 of the Act is also not sustainable since the approval as required u/s 151 was not obtained from the proper authority. If the approval obtained by the AO is bad in law, the further proceedings based on such notices have become illegal. Therefore, the assessment order made u/s147 of the Act is not sustainable. Since I am setting aside the assessment order, based on the legal grounds, the other grounds raised by the appellant in the present appeal are rendered academic, not warranting adjudication thereupon.

In the result, the appeal filed by the appellant is allowed.

5. After having considering the facts of the present case and hearing the parties at length, we are also of the view that the present case relates to A.Y 2016-17 and the time limit of 3 years for this assessment order had lapsed on 31.03.2020 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/s148A(d) and notice u/s148 was issued on 30.06.2022. Since the notice u/s 148 and order u/s148A(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-5, Mumbai. Accordingly, since a proper sanction by the specified authority had not been obtained for issue of notice u/s148 under the applicable provisions of law, therefore said notice is invalid and bad in law and consequently further proceedings based on such notice have also become illegal. Hence the assessment order was rightly held to be not sustainable.

6. Even no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful findings so recorded by Ld. CIT(A). Hence, the grounds raised and by the revenue stands dismissed.

7. In the result, the appeal filed by the revenue stands dismissed.

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8. Since we have already dismissed the appeal filed by the revenue and quash the assessment order passed therein, therefore CO filed by the assessee stands dismissed as the same becomes infructuous.

9. In the result, the appeal filed by the revenue stands dismissed and the COs filed by the assessee stand dismissed.

Order pronounced in the open court on 29/01/2026

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai:

Dated: 29/01/2026

KRK, Sr. PS

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