

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

**BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)**

**I.T.A. No. 6349/Mum/2025**

**Assessment Year: 2017-18**

|  |     |   |
|--|-----|---|
| <b>Late Chanchal Hiralal Shah</b><br>[Represented by Rohit Hiralal Shah]<br>188/6, Buddha Bhavan<br>S.S. Wagh Marg<br>Opp. Bombay Dyeing Spinning Mills<br>Naigaon, Dada (East)<br>Mumbai - 400014<br><b>[PAN: AAOPS4395J]</b> | Vs. | <b>Income Tax Officer, Ward-<br/>20(1)(1), Mumbai</b> |
| <b>(Appellant)</b>   |     | <b>(Respondent)</b>                                   |

|                    |   |
|--------------------|---|
| <b>Assessee by</b> | Shri Bhavya Rangai a/w Shri Bhadresh Doshi, ARs |
| <b>Revenue by</b>  | Shri Limbasiya Kavan Nareshkumar, Sr. DR.       |

|                              |            |
|------------------------------|------------|
| <b>Date of Hearing</b>       | 03.02.2026 |
| <b>Date of Pronouncement</b> | 06.02.2026 |

**ORDER**

**Per Smt. Beena Pillai, JM:**

Present appeal filed by assessee arises out of order dated 01/08/2025 passed by NFAC, Delhi [hereinafter “the Ld.CIT(A)”], for Assessment Year 2017-18 on the following grounds of appeal:-

*“1. On the facts and circumstances of the case and in law, the notice issued by the learned assessing officer under Section 148 on 30-7-2022 is invalid and bad in law in view of the fact that it was issued after the expiry of the time period as extended by the provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 after excluding the period referred to in third proviso to Section 149 as explained by the Supreme Court in the case of UOI v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC). As a result, the said notice as well as the entire assessment proceeding ought to have been declared as null and void.*

*2. On the facts and circumstances of the case and in law, the learned Assessing Officer has erred in issuing the order under Section 148A(d) and the notice under Section 148 after obtaining the approval of the approval of PCIT- 20, Mumbai which was not the correct 'specified authority' as per*

*Section 151 who should have approved it when three years have already elapsed from the end of the relevant assessment year.*

*3. On the facts and circumstances of the case and in law, the ITO, Ward 20(1)(1), Mumbai has erred in passing the order u/s. 148A(d) and also issuing the notice u/s. 148 without appreciating that he was not having the jurisdiction for the same in view of Section 151A and the notification issued thereunder notifying e-Assessment of Income Escaping Assessment Scheme, 2022 and, thereby, rendering the said order and the notice as well as the entire assessment proceeding as null and void.*

*4. On the facts and circumstances of the case and in law, the learned Assessing Officer has erred in issuing a notice u/s 148 dated 30/07/2022 without complying with the requirements of Circular No. 19 of 2019 dated 14th August, 2019 issued by the CBDT.*

*5. On the facts and circumstances of the case and in law, the CIT(A) has erred in confirming the addition of Rs. 20,19,620 u/s. 56(2)(vii)(b).*

*The Appellant craves leave to add, alter, amend, vary and/or withdrawn any or all the above grounds of appeal.”*

**2.** Assesse has also raised additional ground challenging the validity of re-assessment proceedings vide application dated 08/12/2025, which is as under:-

*“1. On the facts and circumstances of the case and in law, the notice issued by the learned assessing officer under Section 148 on 30-7-2022 is invalid and bad in law in view of the fact that it was issued after the expiry of the time period as extended by the provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 after excluding the period referred to in third proviso to Section 149 as explained by the Supreme Court in the case of UOI v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC). As a result, the said notice as well as the entire assessment proceeding ought to have been declared as null and void.*

*2. On the facts and circumstances of the case and in law, the learned Assessing Officer has erred in issuing the order under Section 148A(d) and the notice under Section 148 after obtaining the approval of the approval of PCIT- 20, Mumbai which was not the correct 'specified authority' as per Section 151 who should have approved it when three years have already elapsed from the end of the relevant assessment year.*

*3. On the facts and circumstances of the case and in law, the ITO, Ward 20(1)(1), Mumbai has erred in passing the order u/s. 148A(d) and also issuing the notice u/s. 148 without appreciating that he was not*

*having the jurisdiction for the same in view of Section 151A and the notification issued thereunder notifying e-Assessment of Income Escaping Assessment Scheme, 2022 and, thereby, rendering the said order and the notice as well as the entire assessment proceeding as null and void.*

4. *On the facts and circumstances of the case and in law, the learned Assessing Officer has erred in issuing a notice u/s 148 dated 30/07/2022 without complying with the requirements of Circular No. 19 of 2019 dated 14th August, 2019 issued by the CBDT.”*

**2.1.** After hearing both sides and considering the nature of the additional grounds, the *Tribunal* finds that the same are purely legal in nature and do not require investigation of any fresh facts. The *Hon'ble Supreme Court* in the case of *NTPC Ltd. v. CIT* reported in (1998) 229 ITR 383 (SC) and in the case of *Jute Corporation of India Ltd. v. CIT* reported in (1991) 187 ITR 688 (SC) has held that an appellate authority is empowered to admit additional grounds involving question of law arising from facts already on record. Respectfully following the aforesaid decisions and considering that the additional grounds go to the root of the matter, the additional grounds raised by the assessee are admitted for adjudication.

### **3. Brief facts of the case are as under:-**

The assessee is an individual and filed the return of income declaring total income of ₹10,56,190/- for AY 2017-18. As per information available on the Insight Portal, it was noticed that the assessee purchased immovable property for consideration of ₹21,27,480/- during the year under consideration, whereas the stamp duty value of the said property determined by the stamp valuation authority was ₹57,83,400/-. Accordingly, the provisions of section 56(2)(vii)(b) of the Act were found to be applicable. It was

noted that, the difference of ₹36,55,920/- between the purchase consideration and the stamp duty value was not offered to tax by the assessee and the source of investment also remained unexplained.

**3.1.** Based on the aforesaid information, the Ld. AO issued notice u/s 148 of the Act on 30/06/2021. Subsequently, in view of the directions of the *Hon'ble Supreme Court* in the case of *Union of India v. Ashish Agarwal* reported in (2022) 444 ITR 1 (SC), the said notice was treated as a notice u/s 148A of the Act. The assessee was called upon to file its explanation. Although the assessee filed a response, the Ld. AO found the same to be unsatisfactory and accordingly passed order u/s 148A(d) as a consequence notice u/s 148 of the Act was issued on 30/07/2022. The Ld. AR submitted that, the original notice issued u/s 148 of the Act under the old provisions dated 30/06/2021 was treated as a deemed notice pursuant to the decision of the *Hon'ble Supreme Court* in the case of *Union of India v. Ashish Agarwal (supra)*. He submitted that thereafter, upon issuance of notice u/s 148A(b), order u/s 148A(d) was passed on 30/07/2022, wherein the income alleged to have escaped assessment was quantified at ₹36,55,920/-.

**3.2.** The Ld. AR submitted that the validity of the notice issued u/s 148 dated 30/07/2022 has been challenged on two grounds.

- Firstly, the income alleged to have escaped assessment is less than ₹50 lakhs and, therefore, in view of the observations of the *Hon'ble Supreme Court* in the case of *Union of India v. Rajeev Bansal* reported in (2024) 469 ITR 46 (SC), no notice

u/s 148 under the new regime could have been issued. He submitted that, the statute is explicit that reopening beyond the prescribed period is not permissible where the alleged escaped income is below ₹50 lakhs and section 149 of the Act does not contemplate issuance of notice in such a category.

- Secondly, the Ld. AR submitted that even assuming the notice to be valid, the sanction for issuance of impugned notice was not obtained from the appropriate authority as mandated u/s 151 of the Act.

He submitted that in the present case the notice, being the notice under the new regime, issued beyond three years. Thus, it required sanction from the authority specified u/s 151(1) of the Act, namely the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be. However, in the present case, approval was granted by the Principal Commissioner of Income Tax-20, Mumbai and therefore, according to the Ld. AR, the impugned notice is bad in law.

**3.3.** On the contrary, the Ld. DR relied upon the orders of the authorities below.

Perused the submissions advanced by both sides in light of the material placed on record.

**4.** The limited issue that is raised by the assessee in the additional ground is to examine whether the notice issued u/s 148 of the Act under the new regime dated 30/07/2022, based on the order passed u/s 148A(d) on the even date, is after obtaining

approval of the appropriate authority, in accordance with the provisions of section 151 of the Act.

**4.1.** The Ld. AR has relied on the following observations from the decision of the Hon'ble Supreme Court in the case of *Union of India v. Rajeev Bansal* (supra):

*“iii. Sanction of the specified authority*

*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 assessee from harassment resulting from the mechanical reopening of assessments Sri Krishna (P.) Ltd. v. ITO [1996] 87 Taxman 315/221 ITR 538 (SC)/[1996] 9 SCC 534. A table representing the prescription under the old and new regime is set out below:*

| <b>Regime</b>                            | <b>Time limits</b>   | <b>Specified authority</b>  |
|--|--|---|
| <b>Section 151(2) of the old regime</b>  | <i>Before expiry of four years from the end of the relevant assessment year</i>          | <i>Joint Commissioner</i>   |
| <b>Section 151(1) of the old regime</b>  | <i>After expiry of four years from the end of the relevant assessment year</i>           | <i>Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner</i>         |
| <b>Section 151(i) of the new regime</b>  | <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>                             |
| <b>Section 151(ii) of the new regime</b> | <i>More than three years have elapsed from the end of the relevant assessment year</i>   | <i>Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General</i> |

74. The above table indicates that the specified authority is directly correlated 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 20th March 2020 to 31st 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 20th March 2020 and 31st March 2021, then the specified authority under section 151(i) has an extended time till 30th 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 20th March 2020 and 31st March 2021, then the specified authority under section 151(2) has time till 31st March 2021 to grant approval.*

*The time limit for Section 151 of the old regime expires on 31st March 2021 because the new regime comes into effect on 1st April 2021.*

*78. For example, the three year time limit for assessment year 2017-2018 falls for completion on 31st March 2021. It falls during the time period of 20th March 2020 and 31st 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 30th June 2021.*

79. Under Finance Act 2021, the assessing officer was required to obtain prior approval or sanction of the specified authorities at four stages:

a. Section 148A(a) - to conduct any enquiry, if required, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

b. Section 148A(b) - to provide an opportunity of hearing to the assessee by serving upon them a show cause notice as to why a notice under section 148 should not be issued based on the information that suggests that income chargeable to tax has escaped assessment. It must be noted that this requirement has been deleted by the Finance Act 2022;

c. Section 148A(d) - to pass an order deciding whether or not it is a fit case for issuing a notice under section 148; and

d. Section 148 - to issue a reassessment notice.

80. In *Ashish Agarwal (supra)*, this Court directed that Section 148 notices which were challenged before various High Courts shall be deemed to have been issued under section 148-A of the Income-tax Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b). Further, this Court dispensed with the requirement of conducting any enquiry with the prior approval of the specified authority under section 148A(a). Under Section 148A(b), an assessing officer was required to obtain prior approval from the specified authority before issuing a show cause notice. When this Court deemed the Section 148 notices under the old regime as Section 148A(b) notices under the new regime, it impliedly waived the requirement of obtaining prior approval from the specified authorities under section 151 for Section 148A(b). It is well established that this Court while exercising its jurisdiction under Article 142, is not bound by the procedural requirements of law *High Court Bar Association v. State of UP* [2024] 160 taxmann.com 32/299 Taxman 21 (SC)/[2024] 6 SCC 267.

81. This Court in *Ashish Agarwal (supra)* directed the assessing officers to “pass orders in terms of Section 148-A(d) in respect of each of the assesses concerned.” Further, it directed the assessing officers to issue a notice under Section 148 of the new regime “after following the procedure as required under section 148-A.” Although this Court waived off the requirement of obtaining prior approval under section 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 under section 148A(d) or issuing a notice under section 148. These notices ought to have been issued following the time limits specified under section 151 of the new regime read with TOLA, where applicable.”*

**4.1.1.** On a bare reading of the above extract from the decision, it is noted that under the new provisions of Section 148A introduced by the Finance Act, 2021, the Ld. AO is required to obtain prior approval or sanction of the specified authority at four stages, namely:-

- a. Section 148(a)-to conduct any enquiry, if required, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
- b. Section 148A(b)-to provide an opportunity of hearing to the assessee by serving upon them a show cause notice as to why a notice under section 148 should not be issued based on the information that suggests that income chargeable to tax has escaped assessment. It must be noted that this requirement has been deleted by the Finance Act 2022;
- c. Section 148A(d)-to pass an order deciding whether or not it is a fit case for issuing a notice under section 148; and
- d. Section 148-to issue a reassessment notice.

**4.2.** Thus, the Ld. AO was required to obtain prior approval of the specified authority u/s 151 of the Act under the new regime before

passing an order under section 148A(d) and issuing a notice u/s 148 of the Act.

**4.3.** It is further noted that in the new regime, the income escaping assessment must be more than ₹50,00,000/-, for reassessment notice to be issued after the expiry of three years from the end of the relevant assessment year only after obtaining prior approval of the Principal Chief Commissioner or the Principal Director General or the Chief Commissioner or the Director General. It is also noted that if the income escaping assessment is less than ₹50,00,000/-, no reassessment notice can be issued after the expiry of three years, as per section 151(1)(b) of the Act.

**4.3.1.** In the present facts and circumstances of the case, the income alleged to have escaped assessment is ₹15,00,000/- and the notice issued under the new regime is beyond the period of three years. Accordingly, as per section 151(1)(b) of the Act, the notice issued on 30/07/2022 is bad in law.

**4.4.** Even otherwise, the appropriate authority who could sanction the said notice, to issue beyond a period of three years, is the Principal Chief Commissioner or the Principal Director General or the Chief Commissioner or the Director General. In the present facts of the case, the said notice issued beyond three years has been approved by the Principal Commissioner, which again does not satisfy the condition prescribed under section 151(ii)(b) of the Act.

**7.** This *Tribunal* is, thus, of the opinion that non-compliance with the provisions of section 151 renders the notice issued under section 148 of the Act dated 30/07/2022 to be bad in law and, hence, the same deserves to be quashed and set aside. As a consequence, the reassessment proceedings initiated thereafter also become bad in law.

**As the assessment proceedings stand quashed, the issue raised by the assessee on merits becomes academic at this stage and require no adjudication.**

**In the result, the appeal filed by the assessee stands allowed.**

**Order pronounced in the open court on 06/02/2026**

**Sd/-**

**(BEENA PILLAI)  
Judicial Member**

Mumbai  
Dated: 06/02/2026  
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**