IN THE INCOME TAX APPELLATE TRIBUNAL
"C''BENCH: BANGALORE

BEFORE SHRI PRASHANT MAHARISHI,VICE PRESIDENT
AND SHRI KESHAV DUBEY, JUDICIAL MEMBER

IT(IT)A No.813/Bang/2024
Assessment Year : 2016-17

Shri. Rahul Meka, C-19 Kudremukh Colony, 2nd Block, Koramangala, Bangalore – 560 034, Karnataka. **PAN NO :BDEPM 8117 J**	**Vs.**	ITO (International Taxation), Ward – 1(2), Bangalore.
APPELLANT		**RESPONDENT**

Appellant by	:	Shri Narendra Sharma, Advocate
Respondent by	:	Dr. Divya K.J – CIT(DR)(ITAT), Bangalore.

Date of Hearing	:	27.01.2026
Date of Pronouncement	:	06.02.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of ld. Income Tax Officer, Ward InternationalTaxation-1(2), Bangalore, dated 08/03/2024 vide DIN & Order No. ITBA/AST/S/147/2023-24/1062276762(1) passed u/s. 147 r.w.s 144C(13) of the Income Tax Act, 1961 (in short "the Act") for the assessment year 2016-17.

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

1. The final order of assessment passed by the learned assessing officer i.e. Income Tax Officer. Ward International Taxation-1(2), Bengaluru, u/s. 147 r.w.s 144C(13) of the Act dated 08/03/2024, in so far as it is against the Appellant is opposed

to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.

2. The appellant denies himself liable to be assessed on a total income determined by the learned assessing officer amounting to Rs.75,69,043/- as against the income returned and reported by the appellant of Rs.15,850/-, on the facts and circumstances of the case.

3. **Grounds on addition made under section 68 of the Act amounting to Rs.47,00,000/-:-**

3.1 The learned assessing officer and the learned DRP were not justified in making an addition of Rs.47,00,000/- as unexplained credits section 68 of the Act, on the facts and circumstances of the case.

3.2 The learned assessing officer and the learned DRP failed to appreciate that the appellant has filed the confirmation from parties who have bought the antique furnitures, from the appellant and erroneously made the additions under section 68 of the Act, on the facts and circumstances of the case.

3.3 The learned assessing officer and the learned DRP failed to appreciate that the Appellant has discharged the primary onus casted upon the appellant as per the provisions of section 68 of the Act, as regards to the identity of the person, nature and source of the credit, on the facts and circumstances of the case.

3.4 The learned assessing officer and the learned DRP failed to appreciate that, the source of source and origin of origin of the income of third person need not be proved by the Appellant which is a settled position of law as held by various courts, and consequently the additions made on this count requires to be rejected, on the facts and circumstances of the case.

3.5 The learned assessing officer and the learned erred in making additions of Rs.47,00,000/- on the premise that no supporting evidences were provided by the Appellant, on the facts and circumstances of the case..

3.6 Without prejudice, learned assessing officer and the learned DRP erred in treating the bank account of the Appellant as "books" and thereby making addition of Rs.47,00,000/- as unexplained cash credits under section 68 of the Act, on the facts and circumstances of the case.

4. **Grounds on additions made amounting to Rs.28,53,193/- as Long-Term Capital Gains as per section 45 of the Act:**

4.1 The learned assessing officer and the learned DRP, were not justified in making and addition of Rs.28,53,193/- as Long-Term Capital gains, on the facts and circumstances of the case.

4.2 The learned assessing officer and the learned DRP, were not justified in denying the eligible claim of exemption under section 54 F of the Act, on the facts and circumstances of the case.

4.3 The learned assessing officer and the learned DRP, were not justified in denying the eligible claim of deduction under section 54 F of the Act as the appellant has fulfilled all the conditions as envisaged in the statute by investing in a residential building within stipulated period for claiming exemption under section 54F of the Act, on the facts and circumstances of the case.

4.4 The learned assessing officer and the learned DRP, failed to appreciate that as per the provisions of sections 54 F of the Act, the appellant has within the stipulated time for re-investing has made the payments and the completion of the construction by the builder and the registration of the property

is not fatal for claiming exemption under section 54F of the Act, on the facts and circumstances of the case.

4.5 The learned assessing officer and learned DRP, failed to appreciate that the appellant having re-invested the capital gains arising from sale of original property in a new residential house is eligible for claim of exemption under section 54 F of the Act, and ought to have given all the benefits and exemptions available as per the statute, on the facts and circumstances of the case.

5. Without prejudice, to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies himself liable to be changed to interest under section 234A, 234B & 234C of the Income Tax Act on the facts and circumstances of the case. The Appellant contends that the levy of interest under section 234A, 234B & 234C of the Act is also bad in law as the period, rate, quantum and method of calculation adopted by the learned assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.

6. The appellant craves leave to add, alter, amend, substitute or delete any or all of the grounds of appeal urged above.

7. For the above and other grounds to be urged during the course of hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice.

3. The assessee has also raised the following additional grounds of appeal: -

1. The order of re-assessment passed under section 147 of the Act is bad in law and void-ab-inito as the mandatory

conditions to invoke the provisions of section 147 did not exist and thereby the very notice issued under section 148 is also bad in law, on the facts and circumstances of the case.

2. The reason recorded if any by the learned assessing officer at utmost may be considered as reason to support and stretch of imagination the same cannot constitute reason to believe which is a basic ingredient for a valid assumption of re-assessment, on the facts and circumstances of the case.

3. The notice issued under section 148 of the Act is very vague and without any application of mind since the learned assessing officer has not specified as regard to which limb he has issued the notice whether to assessee or reassess the income of the appellant and consequently the subsequent proceedings which has been concluded on a invalid notice becomes bad in law, on the facts and circumstances of the case.

4. The learned assessing officer has not followed proper procedure before and after issuance of a notice under section 148 of the Act, be that may be sanction under section 151 of the Act and consequently, subsequent proceedings on an invalid procedure adopted by the learned assessing officer becomes void-ab-inito and does not have any legs to stand the test of law which renders the re-assessment order unsustainable in law, on the facts and circumstances of the case.

5. The Appellant craves to add, alter, delete or substitute any of the grounds urged above.

6. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays

that the appeal may be allowed and appropriate relief may be granted in the interest of justice and equity.

4. We have heard both the parties on admission of additional grounds. The Lucknow bench of the Hon'ble Allahabad High Court in the case of CIT Vs. Sahara India (2012) 347 ITR 331 held that a legal issue can be raised at any stage but there shall be good reason for admitting the additional ground.In our Opinion all the facts are already on record and there is no necessity of investigation of any fresh facts for the purpose of the adjudication of above grounds. Further we are also of the opinion that the additional grounds raised in the present case are purely legal in nature & therefore these are critical for a fair adjudication of the matter. The Hon'ble Madras High Court in the case of CIT Vs Indian Bank (2015) 230 Taxman 635 (Madras) held that Rule 11 of the I.T. Rules makes it clear that the assessee has the right to raise additional grounds and if the same is beneficial to the assessee, the same should be considered by the Tribunal.

4.1 Further, the Hon'ble Karnataka High Court in the case of Gundathur Thimmappa & Sons vs. CIT, Mysore, reported in (1968) 70 ITR 70 held that when the point raised by the assessee is a point which went to the root of the matter and affected not merely his liability to pay tax but also jurisdiction of the Tribunals and Authorities themselves to subject the amount concerned to tax, the Appellate Tribunal had the discretion to permit point of law to be raised for the first time in appeal because the question went to the root of the case. The Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs CIT (1998) 229 ITR 383 held that undoubtedly, the Tribunal will have the discretion to allow or not allow a new ground to be raised. But where the Tribunal is only

required to consider a question of law arising from the facts which are on record in the assessment proceedings, we fail to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee. Accordingly, we inclined to admit the additional legal grounds for the purpose of adjudication as there was no investigation of any fresh facts otherwise on record and these are critical for a fair adjudication of the matter.

5. Now, first we proceed to adjudicate one of the legal groundamong several jurisdictional grounds raised by the assessee challenging the order passed u/s. 148A(d) of the Act and notice issued u/s. 148 of the Act both dated 29/07/2022as not in accordance with the provisions of section 151 of the Act and consequently the subsequent proceedings are invalid and non-est.

5.1 Thebrief facts of the case are that the assessee is a non-resident who filed his return of income for the assessment year 2016-17 u/s 139(1) of the Act on 01/08/2016 declaring total income of Rs.15,850/-. The AO had reasons to believe that the income of the assessee chargeable to tax for the assessment year 2016-17 had escaped assessment within the meaning of section 147 of the Act and accordingly, the initial notice u/s 148 of the Act for the assessment year 2016-17 was issued on **29/06/2021** after obtaining the necessary satisfaction of the JCIT, Range 4(3), Bangalore.

5.2 It is worthwhile here to mention that while Finance Act, 2021 was not yet in horizon, due to the onset of Covid-19 pandemic followed by the nationwide lockdown in March,2020 the Government of India announced various relaxations by way of The Taxation & Other Laws (Relaxation of certain Provisions) Ordinance, 2020 No.2 of 2020

dated 31/03/2020 in which the Original limitation for issuance of Notice U/s 148 of the I Tax Act, 1961 falling during the Period 20/03/2020 - 29/06/2020 stand extended to the **30/06/2020.** On **24/06/2020** the Central Government issued a notification S.O.2033(E) in exercise of its power u/s 3(1) of the Above Ordinance, whereby the original limitation for issuance of Notice U/s 148 of the I. Tax Act,1961 falling during the Period 20/03/2020 - 31/12/2020 stand extended to the **31/03/2021.** Further the Relaxation Ordinance, 2020 was **replaced** by the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (hereinafter to be referred as the Relaxation Act, 2020) introduced with effect from **29/09/2020**. As per sub-section (1) of Section 3 of the Relaxation Act, 2020 the time limits specified in the specified Acts which fell during the period from 20/03/2020 to 31/12/2020 or such other date after 31/12/2020 as the central Government may notify, were extended to **31/03/2021** or such other date after 31/03/2021 as the Central Government may by notification specify. Such extension would operate notwithstanding anything contained in the specified Act. On **31/12/2020** theCentral Government issued another Notification S.O.4805(E) in exercise of the powers u/s 3(1) Relaxation Act, 2020 whereby the relaxation /extension under the section was extended to all actions that were required to be completed/complied with during the period starting from 20/03/2020 and upto 30/03/2021. The last date for all such action was extended up to **31/03/2021. T**he **Parliament (Legislature) being fully aware of the Fact** of Covid, 19 and its related relaxations provided by way of The Taxation & Other Laws (Relaxation of certain Provisions) Ordinance, 2020 and the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 as well as various Notifications issued there under **introduced** reformative changes to

Section **147 to 151** of the Income Tax Act, 1961 governing the reassessment proceedings by way of **the Finance Act, 2021 with the objective of promoting ease of doing business and reducing litigation**, which was passed by way of assent of the President on the **28/03/2021. The Parliament specifically enacted** that the Substituted Sections 147 to 151 of the Income Tax Act, 1961 coming into force on **01/04/2021**.Upon enactment of the Finance Act, 2021, the provisions contained in the Act pertaining to reassessment of income stood substituted by new set of provisions. Upon such substitution the old provisions ceased to exist. Further there is no indication either in express terms or implied in the newly introduced provisions that the legislature desired to retain the old provisions for the past period. In that view of the matter any action of issuance of notice for reassessment which is taken on or after 01/04/2021, must be in accordance with the amended provisions.In spite of Clear intention of the **Legislature** as above, on **31/03/2021** the Central Government in guise of the powers U/s 3(1) of the Relaxation Act, 2020 issued another Notification S.O.1432(E). The Notification inter-alia provided that where the last date for issuance of Notice U/s 148 of the I. Tax Act,1961 fell during the period starting from 20/03/2020 and up to 31/03/2021, the last date for issuance of such notice shall extended to **30/04/2021.**The Central Government didn't stop here and issued yet another Notification on dated **27/04/2021**, where the earlier Notification of the Central Government dated 31/03/2021 issued in the guise of the powers U/s 3(1) of the Relaxation Act, 2020 was partially modified, in all cases where the last date for issuance of Notice u/s 148 of the I. Tax Act, stood extended to 30/04/2021 as a result of the Notification dated 31/03/2021, the last date for issuance of such Notice now stood extended to **30/06/2021.**

5.3 Therefore, the mute question aroused whether the Central Government by way of issuing Notifications in the guise of the powers U/s 3(1) of the Relaxation Act, 2020 can override the clear intentions of the Legislature (Parliament) by way of Finance Act, 2021. As held by the various High Courts the said notice was unsustainable in law as it was issued in accordance with the statutory regime as existed prior to 31/03/2021. The High courts had set aside such notices that were issued after 31/03/2021 without following the procedure as prescribed under section 148A of the Act. Thus, the High Courts struck down notices that were issued under section 148 of the Act after 31/03/2021 but under the unamended provisions relating to the re-assessment of income that had escaped assessment. The Revenue appealed the decisions rendered by the various High Courts to the Supreme Court of India.

5.4 In Union of India v. Ashish Agarwal [2022] 444 ITR 1 (SC) which was one of such appeals arising from the decision of the Hon'ble Allahabad High Court, the Supreme Court delivered its decision on 04/05/2022, whereby it concurred with the view that the amended provisions which came into force after 31/03/2021 would be applicable to notices issued thereafter. However, the Hon'ble Apex Court also issued certain directions in exercise of the powers under Article 142 of the Constitution of India as below-

i) Notice issued u/s 148 under the unamended provision shall be deemed to have been issued u/s 148A of the Act as substituted by the Finance Act,2021 and construed or treated to be show cause notice in terms of section 148A(b) of the Act.

ii) The assessing officer shall, **within 30 days** from 04/05/2022 provide to the respective assessees **information and material** relied upon by the revenue.

iii) The assessee shall reply to the show cause notice within two weeks from the receipt of the information and material from the assessing officer.

iv) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) of the Act is hereby dispensed with as a one-time measure vis-à-visthose notices which have been issued under section 148 of the unamended Act from 01/04/2024 till date.

v) The assessing office shall thereafter pass orders in terms of section 148A(d) of the Act in respect of each of the concerned assessees; Thereafter, after following the procedure as required under section 148A may issue notice under section 148 of the Act (as substituted).

vi) **All defenses**which may be available to the assessees including those available u/s 149 of the Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.

vii) The Order shall be applicable PAN India and the orders passed by the different High courts on the issue and under which similar notices which were issued after 01/04/2021 u/s 148 of the Act is set aside and shall be governed by the present order and shall modified to the aforesaid extent.

5.5 Thereafter, in compliance of the above directions issued by the Hon'ble Supreme Court of India in Union of India & Ors v. Ashish Agarwal (supra) as well as in accordance with the CBDT'S instruction No. 01/2022 dated 11/05/2022, the said notice u/s 148 of the Act dated 29/06/2021 was treated as show cause notice u/s 148A(b) of the Act and the underlying material and information on which the show cause notice u/s 148A(b) of the Act dated **20/05/2022** is based was provided to the assessee asking to submit his response on or before 04/06/2022. The assessee responded to the said notice and filed his reply along with the copy of the return filed on 01/8/2016 for the assessment year 2016-17 on **02/06/2022**.

5.6 The ITO, ward-4(3)(2), Bengaluru after considering the material available on record and the details filed by the assessee and with prior approval of the Pr. Commissioner of Income Tax, Bengaluru-2, Bengaluru accorded on 27/07/2022 vide F.No. 148A(d)/PCIT-2/2022-23 passed order u/s 148A(d) of the Act on **29/07/2022**deciding that it is a fit case for issue of notice u/s 148 of the Act. Accordingly, with prior approval of thePr. Commissioner of Income Tax, Bengaluru-2, Bengaluru accorded on 27/07/2022 vide F.No. 148A(d)/PCIT-2/2022-23a notice u/s 148 of the Act was also issued to the assessee on the same day i.e. on 29/07/2022.

5.7 Before proceeding further, it is very apposite here to note down the chronological date of event as discussed in the preceding paragraphs for a better appreciation of fact which are detailed below: -

Sl. No	Particulars of Event	Date	PB Page
(i)	The assessee for the impugned Assessment Year 2016-17, had filed his original return of income, declaring a total income of Rs.15,850/-	01/08/2016	
(ii)	A notice under section **148** of the Act for re-opening of assessment for the impugned assessment year 2016-17, was issued by the then Income Tax Officer Ward-4(3)(2),Bengaluru	**29/06/2021**	01-01
(iii)	Thereafter, as per the directions of the Hon'ble Apex Court in the case of Union of India Vs. Ashish Agarwal (2022) 444 ITR 1 (SC), the ld. AO treated the original notice issued under section 148 of the Act dated 29/06/2021 under the old regime, as deemed to be Show Cause Notice under the new regime and consequently the ld. JAO issued notice under section **148A(b)** of the Act, granting 15 days time or latest by 04/06/2022 for the assessee to file his response.	**20/05/2022**	02-03
(v)	Thereafter, the ld. JAO passed an order under section 148A (d) of the Act, with approval under section 151 of the Act from the ld. Principal Commissioner of Income Tax, Bengaluru-2, Bengaluru	**29/07/2022**	06-07
(vi)	Subsequently, the then ld. AO issued a **fresh notice under section 148** of the Act	**29/07/2022**	08-10

5.8 Now the assessee in this appeal by raising the additional groundis challengingthat the sanction obtained under section 151 of the Act for re-opening of assessment under section 148A(d) and for notice issued under section 148 of the Act, are not in accordance with the provisions of section 151 of the Act of the new regime and consequently the subsequent proceedings are invalid and requires to be annulled.

5.9 Before us, the ld. AR of the assessee vehemently argued thatas could be seen from the order passed under section 148A (d) of the Act, dated 29/07/2022 and the notice issued under section 148 of the Act, dated 29/07/2022, the sanction obtained from the Principal Commissioner of Income Tax, Bengaluru-2, Bengaluru, is without authority and bad in law.It is submitted that the assessment year which is subject matter ofthe present appeal is Assessment Year 2016-17. The order under section 148A(d) of the Act and the Notice issued under section 148 of the Act are both dated 29/07/2022 and approval under section 151 was obtained on 27/07/2022, which is beyond the period of 3 years. Further it is submitted that as the approval is beyond three years ought to have been obtained from the Principal Chief Commissioner of Income Tax/ Principal Director General of Income Tax/ Chief Commissioner of Income Tax/ Director General of Income Tax as per provisions of section 151 (ii) of the Act. As the sanction in the instant case has been obtained from the Principal Commissioner of Income Tax, Bengaluru-2, Bengaluru on 27/07/2022, which is not in accordance with the provisions of section 151 of the act and consequently the sanction is required to be quashed.

5.10 Before us, the ld. CIT, DR vehemently submitted that the original notice u/s 148 of the Act dated 29/06/2021 was treated as show cause notice u/s 148A(b) of the Act as per the directions of the Hon'ble supreme Court in the case of Union of India & Ors v. Ashish Agarwal (supra) and accordingly the order u/s 148A(d) of the Act was passed on 29/07/2022 and the notice issued under section 148 of the Act was issued on the same day after obtaining the sanctionfrom the Principal Commissioner of Income Tax, Bengaluru-2, Bengaluru. The ld. CIT DR also submitted that the period of three years for the purposes of section 151 (i)of the Act shall be computed after taking into account the period of limitation as excluded by the 3rd or 4th or 5th provisos or extended by the 6th proviso to section 149(1) of the Act and accordingly submitted that the time or extended time allowed to the assessee as per the show cause notice issued u/s 148A(b) of the Act shall be excluded. Lastly the ld. DR submitted that where immediately after the exclusion of the period above, the period of limitation available to the AO for passing an order u/s 148A(d) of the Act does not exceed 7 days, such remaining period shall be extended to 7 days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

6. We have heard the rival submissions and carefully considered the materials available on record. Before proceeding further, the provisions of section 151 of the Act as existed on the date of issuance of order under section 148A(d) of the Act and as on the date of notice issued under section 148 of the Act, are reproduced hereunder for ease of reference & convenience: -

"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 where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General , if more than three years have elapsed from the end of the relevant assessment year.]"*

On plain reading of the above, it is very much clear that the specified Authority for the purposes of sanction u/s 148 and section 148A of the Act, if more than three years have elapsed from the end of the relevant assessment year shall be the Principal Chief Commissioner /Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General.

6.1 Further, it is worthwhile here to mention that the Hon'ble Supreme Court in the case of Union of India v. Rajeev Bansal [2024] 469 ITR 46 (SC), while dealing with the issue of approval from the specified authority in terms of section 151 of the Act, made the following observations: -

"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 assesses 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:

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

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 year 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.

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;[33]
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 U P* [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."

6.2 On bare reading of the above extract of the judgement of Hon'ble Supreme Court in the case of Rajeev Bansal (supra), we find that the Hon'ble Supreme Court had clarified as under:

1. Under this substituted provisions of reassessment 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.
   i. At the stage u/s 148A (a);
   ii. At the second stage u/s 148A(b);
   iii. At the third stage u/s 148A(d); and
   iv. At the fourth stage u/s 148
2. In the case of Ashish Agrawal (supra), the Hon'ble Supreme Court waived off the requirement of obtaining prior approval u/s 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 u/s 148A(d) or for issuing a notice u/s 148 of the Act.
3. Under the new regime, if income escaping assessment is more than Rs.50 lakhs, a reassessment notice could be issued after the expiry of 3 years from the end of the relevant assessment year only after obtaining the prior approval of the principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.
4. Section 151 (ii) of the substituted provisions (the new regime) mandates obtaining approval of a higher authority, if more than 3 years have elapsed from the end of the relevant assessment year. Thus, non-compliance with the provisions of section 151 vitiates

the jurisdiction of the assessing officer to issue a notice u/s 148 of the Act.

5. The grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction u/s 148 to issue a reassessment notice.

6.3 Further, identical facts were involved before the Hon'ble High Court of Bombay in the case of Ramesh Bachulal Mehta Vs. Income Tax Officer (2025) 177 Taxmann.com 606 (Bom), wherein the order u/s 148A(d) of the Act for the assessment year 2016-17 was passed on 13.7.2022 after obtaining prior approval from the Principal Commissioner of Income Tax – 27, Mumbai. The Hon'ble Bombay High Court held that the period of 3 years from the end of the assessment year 2016-17 r.w.s. 3 (1) of the Taxation & Other laws (Relaxation & Amendment of certain provisions) Act, 2020 (for short, "TOLA") expired on 30.06.2021. The authority specified u/s 151 (i) of the Act could have granted sanction till 30.6.2021. However, the aforesaid order u/s 148A (d) of the Act was passed on 13.7.2022 which was after the expiry of 3 years from the end of the assessment year 2016-17. In such a case, the authority specified u/s 151 (ii) of the Act i.e. the Principal Chief Commissioner (PCCIT) or Principal Director General (PDGIT) or where there is no PCCIT or PDGIT, the Chief Commissioner (CCIT) or the Director General (DGIT) was required to grant approval. Since the approval was obtained from the authority specified u/s 151 (i) of the new regime instead of the authority specified u/s 151 (ii) of the Act, non-compliance with the provisions of section 151 of the Act vitiated the jurisdiction of the Income Tax authorities to issue a notice u/s 148 of the Act.

6.4 In the present case, the period of 3 years from the end of the assessment year 2016-17 read with TOLA, fell for completion on 30.6.2021. The authority specified u/s 151 (i) of the Act under new regime could have granted sanction only till 30.6.2021. However, on perusal of the order u/s 148A (d) as well as notice u/s 148 of the Act both dated 29.7.2022, we find that the aforesaid order/notice was issued after taking approval from the Principal Commissioner of Income Tax, Bengaluru-2, Bengaluru on 27.7.2022 vide letter in F.No.148A(d)/PCIT-2/2022-23. Since the aforesaid order/notice was issued after the expiry of 3 years from the end of the assessment year 2016-17, as per the substituted provisions of reassessment, the authority specified u/s 151(ii) of the Act i.e. the Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, the Chief Commissioner or the Director General was required to grant approval. Accordingly, we are of the opinion that in the present case, the approval has been obtained from the authority specified u/s 151 (i) of the new regime instead of the authority specified u/s 151(ii) of the new regime and accordingly the non-compliance with the provisions contained in section 151(ii) of the Act vitiates the jurisdiction of the assessing officer to issue notice u/s 148 of the Act.

6.5 Before us, the ld. CIT (DR) vehemently argued that the period of three years for the purposes of section 151 (i) of the Act shall be computed after taking into account the period of limitation as excluded by the 3rd or 4th or 5th provisos or extended by the 6th proviso to section 149(1) of the Act and accordingly submitted that the time or extended time allowed to the assessee as per the show cause notice issued u/s 148A(b) of the Act shall be excluded.

Further the ld. DR submitted that where immediately after the exclusion of the period above, the period of limitation available to the AO for passing an order u/s 148A(d) of the Act does not exceed 7 days, such remaining period shall be extended to 7 days and the period of limitation under this sub-section shall be deemed to be extended accordingly. We are not inclined to agree with the argument of the ld. CIT DR as the proviso to section 151 of the Act was inserted by the Finance Act, 2023 w.e.f 01/04/2023 only whereas the Order u/s 148A(d) & notice u/s 148 of the Act were issued on 29/07/2022. We are of the considered opinion that the provisions of section 151 of the Act as existed on the date of issuance of order u/s 148A(d) of the Act as well as issuance of notice u/s 148 of the Act is to be seen. In Assistant Commissioner of Income-tax v. Godrej Industries Ltd. [2024] 160 taxmann.com 13 (Bombay), for AY 2014-15, the High Court held that the validity of a notice must be judged on the law existing on the date of issuance of the Section 148 notice.

6.6 We are clearly of the view that the present matter stands covered by the decision of Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal (supra) and the decision of the Hon'ble Bombay High Court in the case of Ramesh Bachulal Mehta (supra) and accordingly, we hold that the order dated 29.7.2022 passed u/s 148A(d) of the Act and the consequential notice issued u/s 148 of the Act both dated 29.7.2022 are bad in law for being violative of the provisions of section 151 (ii) of the Act. Hence, they are required to be quashed and set aside. Accordingly, the consequential reassessment order dated 8.3.2024 passed u/s 147 r.w.s. 144C(13) of the Act are also set aside and quashed. Since, we have adjudicated one of the legal ground in favour of the assessee, other grounds raised by the assessee becomes academic.

7. In the result, appeal filed by the assessee is allowed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-	**Sd/-**
(Prashant Maharishi)	**(Keshav Dubey)**
Vice President	**Judicial Member**

Bangalore.
Dated: 06.02.2026.
/NS/*

Copy to:

1.	Appellants	2.	Respondent
3.	DRP	4.	CIT
5.	CIT(A)	6.	DR,ITAT, Bangalore.
7.	Guard file		

By order

Assistant Registrar,
ITAT, Bangalore.