

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.8083/Mum/2025
(Assessment year: 2016-17)

Jignesh Janu Abgul Room No.108, 1 st Floor, Disayre Apartments, Naleshwar Nagar, Nalasopara (East), Palghar, Thane-401209 PAN:ARQPA1503M	vs	Income Tax Officer, Ward-4(1) Asher IT Park, 6 th Floor, Near MIDC, Road No.16Z, Wagle Industrial Estate-Thane West-400604
APPELLANT		RESPONDENT

Assessee by : Shri Prakash Jhunjunwala, CA & Shri Saiprasad Ghosh
Respondent by : Ms. Kavita Kaushik (SR DR)

Date of hearing : 05/02/2026
Date of pronouncement : 10/02/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the NFAC, Delhi [for brevity 'the Id. CIT(A)], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2016-17, date of order 26.11.2025. The impugned order emanated from the order of the Id. Assessment Unit Income Tax Department (for brevity the 'Ld. AO') order passed under section 147 r.w.s. 144 r.w.s. 144B of the Act dated of order 29.05.2023.

2. The assessee's case was reopened under section 148 of the Act for Financial Year 2015–16, relevant to Assessment Year 2016–17, by issuance of notice dated 25.07.2022. The assessee challenged the said reopening notice before the Hon'ble Bombay High Court by filing **Writ Petition (L) No. 3752 of 2024**, which was disposed of vide order dated **27.02.2024**. The Hon'ble Jurisdictional High Court, after considering the assessee's petition and relying upon the judgment in **Siemens Financial Services Pvt. Ltd. v. DCIT & Ors.**, reported in **(2023) 457 ITR 647 (Bom)**, held the impugned notice to be invalid and quashed the same. The relevant observations of the Hon'ble Jurisdictional High Court are reproduced below:

"2. Counsel states that in this petition the issue of improper sanction having been obtained has been raised among other grounds. It was raised during the hearing as well. Counsel states that the issue of improper sanction has been decided by this Court in the case of Siemens Financial Services Private Limited v. Deputy Commissioner of Income Tax and Others, wherein the Court has held that for Assessment Year 2016–2017, the sanction should have been given under Section 151(ii) and not under Section 151(i) of the Income-tax Act, 1961 ('the Act'). Consequently, the sanction is invalid. The Court has stated that in view of the invalid sanction, the notice issued itself will be invalid and has to be quashed. We would also add that if the notice has to be quashed, and if there is an assessment order passed subsequently, the said assessment order having been passed relying on an incorrect sanction will also have to be quashed.

3. Counsel further states that the findings in Siemens Financial Services Private Limited (supra) would squarely apply to this petition as well on the issue of sanction.

4. Therefore, all such notices issued for Assessment Year 2016–2017, the assessment order and the consequential orders, if any, are also hereby quashed and set aside."

3. During the appellate proceedings, the assessee placed the order of the Hon'ble Jurisdictional High Court before the Ld. CIT(A) and requested that the same be followed. The Ld. CIT(A), after taking cognizance of the said order, called for a remand report and thereafter set aside the impugned assessment order to the file of the Ld. AO for verification of the Hon'ble High Court's order and for examination of the issue.

4. The Ld. AR contended that the order of the Hon'ble Jurisdictional High Court was binding on the Ld. CIT(A) at the time of passing the appellate order and that the ruling of the Hon'ble Court was required to be followed. It was submitted that the Hon'ble High Court had already adjudicated the issue and had quashed the notice issued under section 148 of the Act by holding it to be invalid.

5. The Ld. DR, on the other hand, relied solely on the orders of the revenue authorities.

6. We have heard the rival submissions and perused the material available on record. We find that the order of the Hon'ble Jurisdictional High Court is squarely applicable to the Ld. CIT(A) as well as to us. The Hon'ble High Court has adjudicated the assessee's writ petition and has categorically held the notice issued under section 148 of the Act to be invalid and has quashed the same. In view of the principles of judicial discipline, the said notice under section 148 stands quashed, and the order of the Hon'ble High Court is binding on the Ld. CIT(A) as well as on this Tribunal. Since the Ld. AO did not validly assume jurisdiction for issuance of notice under section 148 of the Act for the impugned assessment year, the assessment order itself is invalid and is hereby quashed. Consequently, the impugned appellate order also loses its validity.

Accordingly, the appeal filed by the assessee is allowed.

7. In the result, the appeal of the assessee bearing **ITA No.8083/Mum/2025** is allowed.

Order pronounced in the open court on 10th day of February 2026.

Sd/-

(GIRISH AGRAWAL)
ACCOUNTANT MEMBER
Mumbai, दिनांक/ Dated: 10/02/2026
SAUMYA Sr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, MUMBAI**