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

BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)

I.T.A. No. 7596/Mum/2025
Assessment Year: 2017-18

DCIT, Central Circle – 7(1), Mumbai	Vs.	**Pranavkumar Prafulchandra Vora** 3, Ashapura Park B/H, Vimalnath Society 80Ft. Road Surendranagar Station Road Gujarat - 363001 **[PAN: ACYPV7581R]**
(Appellant)		**(Respondent)**

C.O. No. 22/Mum/2026
Assessment Year: 2017-18

Pranavkumar Prafulchandra Vora 3, Ashapura Park B/H, Vimalnath Society 80Ft. Road Surendranagar Station Road Gujarat - 363001 **[PAN: ACYPV7581R]**	Vs.	**DCIT, Central Circle – 7(1), Mumbai**
(Appellant)		**(Respondent)**

Assessee by	Shri Jignesh Shah, A/R
Revenue by	Shri Limbasiya Kavan Nareshkumar, Sr. DR.

Date of Hearing	05.02.2026
Date of Pronouncement	13.02.2026

ORDER

Per Smt. Beena Pillai, JM:

The present cross appeals filed by the Revenue as well as the Assessee arise out of the order dated 30/09/2025 passed by the Ld.CIT(A) for A.Y. 2017-18.

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

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs. 37,15,770 made u/s 68 of the Income Tax Act, 1961, without appreciating that the assessee had failed to substantiate the genuineness of trading transactions in the scrip of Alankit Ltd., which was identified as a penny stock used for providing accommodation entries

Tax Effect: Rs. 29,46,000/-

2. On the facts and in the circumstances of the case and in law, the La. CIT(A) erred in appreciating the evidences and findings arising out of search and investigation in the Alankit Group, which conclusively established manipulation of share prices and the use of the scrip for generating bogus profits.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in holding that the income was already disclosed as business income ignoring the fact that the entire credit of Rs. 37,76,422/- represented unexplained receipts not supported by genuine business activity and thus rightly taxable u/s 68 of the Income Tax Act, 1961,

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in in not appreciating that mere contract notes and banking channels do not establish genuineness, when the underlying transactions are part of an accommodation entry network.

5. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in holding that sustaining the addition would amount to double taxation. without appreciating that section 68 operates independently of the profit and loss disclosure and the burden lies on the assessee to establish genuineness of entries, failing which they are deemed to be unexplained income of the assessee.

6. The appellant craves leave to add, amend, alter or withdraw any of the above grounds of appeal at or before the time of hearing."

2.1. The assessee has raised the following grounds of appeal in its cross-objections:-

"1. In law and in the facts and circumstances of the case, I.d. CIT(A) has grossly erred in not adjudicating the ground relating to Notice u/s 148, which was issued with the approval of PCIT, whereas the appropriate

authority for granting approval was Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

2. In law and in the facts and circumstances of the casc, Ld. CIT(A) has grossly erred in not adjudicating the ground relating to the validity of the reassessment proceeding despite the fact that the notice issued u/s 148 by the jurisdictional assessing officer is in violation of Section 151A of the Act and CBCT Notification No. 18/2022 dated 29.03.2022.

3. In law and in the facts and circumstances of the case, Id. Assessing officer has grossly erred in passing the Assessment order without the date of passing order and without DIN, which is void, bad in law and liable to be quashed.

4. In law and in the facts and circumstances of the case, Id. CIT(A) has grossly erred in not adjudicating the ground relating to the validity of the reassessment proceeding despite the fact that the Notice under section 148 of the Act dated 28.07.2022 is void and bad in law as it was issued without DIN.

5. In law and on the facts and in the circumstances of the case of appellant, Ld. Assessing officer has grossly erred in passing the assessment order and CIT(A) not adjudicating ground relating to the validity of the reassessment proceeding despite the fact that notice issued u/s 148 of the Act by AO on 28.07.2022 is time-barred as per the decision of Hon'ble Supreme in the case of Union of India v/s. Rajeev Bansal [2024] 167 taxmann.com 70 (SC) Judgement dated 3rd October, 2024 and thus deserves to be quashed.

6. On the facts and in the circumstances of the case and in law, the assessment order passed by the Assessing Officer u/s. 147 r.w.s. 143(3) of the Act is bad in law without appreciating the fact that the conditions laid down under the Act for initiating reassessment proceeding u/s 147 of the Act have not been satisfied.

7. The Respondent craves to add, alter, classify, reclassify, delete or modify any of the above grounds of appeal and requests to consider each of the above grounds without prejudice to one another."

3. Since the issue raised in the cross-objection challenging the validity of the notice issued u/s 148 of the Act goes to the root of the assessment proceedings and strikes at the very jurisdiction assumed by the Ld. AO, we deem it appropriate to adjudicate the

same at the outset. The validity of the reassessment notice being a foundational issue, its determination is essential before proceeding to examine the merits of the additions made in the impugned assessment order. Accordingly, we first take up the grounds raised in the cross-objection relating to the legality and validity of the notice issued u/s 148 of the Act.

4. The Ld.AR submitted that, assessee raised legal issue challenging the validity of the notice issued u/s 148 of the Act under the new regime for reopening of the assessment. He submitted that original notice u/s 148 issued under the old regime was dated 28/06/2021, to reopen the assessment. Thereafter, the said notice was treated as a deemed notice as per the decision of the *Hon'ble Supreme Court* in the case of *Union of India vs Ashish Agrawal*, reported in *(2022) 444 ITR 1.* The Revenue after following the procedure as per the new regime u/s 148A issued notice u/s 148 of the Act on 28/07/2022, which was approved by the Principal Commissioner of Income-tax–3, Ahmedabad, wherein the reasons recorded states that income chargeable to tax amounting to ₹37,76,422/- had escaped assessment for the year under consideration. The Ld.AR submitted that the notice issued under section 148A(b) and the order passed u/s 148A(d) of the Act are beyond three years and that the income escaping assessment is observed to be ₹37,76,422/-.

4.1. The Ld. AR submitted that in present facts, the appropriate authority who has to approve the issuance of notice u/s 148 of the

new regime, as per section 151 of the Act, would be the Principal Chief Commissioner of Income Tax or the Chief Commissioner of Income Tax. The Ld. AR placed reliance on the decision of the *Hon'ble Supreme Court* in the case of *Union of India v. Rajeev Bansal*, reported in *[2024] 469 ITR 46,* wherein it has been held that the sanctioning authority has to be in accordance with the provisions of section 151 of the Act, based on the new provisions u/s 148A of the Act.

4.2. On the contrary, the Ld. DR relied on the orders passed by the authorities below.

I have perused the submissions advanced by both sides in the light of the records placed before this *Tribunal*.

5. The limited issue that has been raised by the assessee is to examine whether the notice issued u/s 148 of the Act under the new regime dated 28/07/2022, based on the order passed u/s 148A(d) passed on the even date, is after obtaining approval of the appropriate authority, in accordance with the provisions of section 151 of the Act.

5.1. The Ld. AR 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 assessees 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 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."

5.1.1. 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.

5.2. 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.

5.3. It is noted that in the new regime, if the income escaping assessment is more than ₹50,00,000/-, a reassessment notice can 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.

5.3.1. In the present facts and circumstances of the case, the income alleged to have escaped assessment is ₹37,76,422/- 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 28/07/2022 is bad in law.

5.4. Even otherwise, the appropriate authority who could sanction the said notice, issued beyond a period of three years, should have been 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 has been approved by the Principal Commissioner, which again does not satisfy the condition prescribed under section 151(ii)(b) of the Act.

6. 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 28/07/2022 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.

Accordingly, legal grounds raised in the cross-objection stand allowed.

As the assessment proceedings stand quashed, the issues raised by the assessee on merits become academic at this stage. The appeal filed by Revenue becomes infructuous.

In the result, the appeal filed by the revenue is dismissed and cross-objection filed by assessee is partly allowed.

Order pronounced in the open court on 13/02/2026

Sd/-

(BEENA PILLAI)
Judicial Member

Mumbai
Dated: 13/02/2026
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