

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
सुश्री पद्मावती एस, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.394/Chny/2026
निर्धारण वर्ष/Assessment Year: 2016-17
&
Stay Petition No.31/Chny/2026
निर्धारण वर्ष/Assessment Year: 2016-17

RMKV Fashion Garment Pvt. Ltd, (Now Merged with RMKV Fabrics Pvt. Ltd,) 176F Trivandrum Road, Vannarpettai, Tirunelveli – 627 003.	v.	The DCIT Circle – 1, Tirunelveli.
[PAN: AAFCR 4023 G]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. G. Baskar, Advocate & P.M. Kathir, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Bipin C.N, CIT
सुनवाईकीतारीख/Date of Hearing	:	05.02.2026
घोषणाकीतारीख /Date of Pronouncement	:	11.02.2026

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are Stay application and appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as "the Ld.CIT(A)"), Delhi, dated



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11.12.2025 for the Assessment Year (hereinafter referred to as "AY")
2016-17.

2. The assessee, *inter alia*, has raised several grounds of appeal including legal issue challenging validity of the notice issued u/s.148 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") being bad in law for not obtaining prior-approval of the competent authority. According to the Ld.AR, when the notice u/s.148 of the Act was issued on 26.07.2022 which was undisputedly an event happening beyond period of three year from end of relevant assessment year, therefore, approval was required to be taken as per provisions of the amended section 151 of the Act from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General of Income tax and not from the Principal Commissioner of Income Tax as held by the Hon'ble Supreme Court in the case of UoI v. Rajeev Bansal reported in [2024] 167 taxmann.com 70 (SC). The Ld.AR has invited our attention at Page No.27 of the Paper Book, wherein, copy of the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) is found placed and he took us especially to Para No.73 onwards and to a chart reproduced therein; and submitted that assessee's case would fall in the last column of the chart, since more than three (3) years have lapsed from the relevant assessment year.



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3. The Ld.AR further submitted that in the present case, the AO issued notice for re-opening of assessment for AY 2016-17 u/s.148 of the Act as per old regime on 20.04.2021. However, since the new regime for re-opening of assessment had come into operation from 01.04.2021, there was a dispute about the legal validity of the AO still issuing notice after 01.04.2021 as per the old regime; and the Hon'ble Supreme Court in the case of UOI v. Ashish Agarwal reported in (2022) 444 ITR 1 (SC) settled the issue by exercising its inherent jurisdiction under Article 142(1) of the Constitution of India and directed the re-assessment notice issued under old regime (i.e. after 01.04.2021) to be deemed to have been issued u/s.148A(b) of the new regime.

4. Pursuant to the Hon'ble Supreme Court decision/direction in the case of Ashish Agarwal (supra), the AO issued fresh notice u/s.148A(b) of the Act on 23.05.2022 which was responded by the assessee on 04.06.2022; and pursuant thereto, on 26.07.2022 the AO passed order u/s.148A(d) of the Act and issued notice u/s.148 of the Act on the same day i.e.26.07.2022. The Ld.AR invited our attention to Page No.22 wherein copy of the notice u/s.148 of the Act dated 26.07.2022 is found placed, wherein, the ACIT Circle - 1 /AO has noted that he had issued ibid notice after obtaining prior approval of the PCIT, Madurai - 1 [Principal Commissioner of Income Tax] which was accorded on 19.07.2022 with



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C.No.141/PCIT/MDU-1/2022-23. The Ld.AR also drew our attention to Page Nos.9-21 of the Paper Book wherein the copy of the order dated 26.07.2022 passed u/s.148A(d) of the Act is found placed therein. The Ld.AR again drew our attention to Para No.6 at page 20-21, wherein the AO has reiterated that he is passing the order u/s.148A(d) of the Act with prior approval of the PCIT, Madurai - 1. Thus, according to the Ld.AR it is evident that the AO has passed order u/s.148A(d) of the Act as well as issued notice u/s.148 of the Act on the same day after getting the prior approval of the PCIT, Madurai - 1 [Principal Commissioner of Income Tax Madurai - 1] accorded on 19.07.2022 with C.No.141/PCIT/MDU-1/2022-23. In the aforesaid, undisputed factual background, according to the Ld.AR, prior approval taken from the PCIT is bad in law, since three (3) years have lapsed from the end of the relevant assessment year, when the notice u/s 148 was issued by AO on 26.07.2022. For buttressing such a contention, he drew our attention to sub-section 151, which prescribes the specified-authority who has to accord sanction for issuance of reopening notice. According to Ld AR, without sanction/approval u/s 151 from the Income Tax Authority as specified therein, the AO couldn't have issued reopening notice u/s.148 of the Act. Accordingly, in the present case, since more than three (3) years have lapsed from the end of the relevant assessment year, the specified authority as per sub clause (ii) of section 151, to sanction issue of notice u/s 148, was the Principal Chief



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Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, then, Chief Commissioner or Director General. Since grant of sanction by the appropriate/specified authority u/s 151 is a pre-condition for the AO to assume jurisdiction u/s.148 of the Act to issue re-opening of assessment notice, according to Ld AR, valid sanction by the appropriate/specified authority u/s 151 of the Act, is *sine qua non* for AO to usurp reopening jurisdiction. Therefore, the Ld.AR asserted that the impugned order issued by the AO dated 26.07.2022 u/s.148A(d) of the Act justifying reopening as well as notice u/s.148 of the Act are bad in law.

5. Per contra, the Ld.DR submitted that after the Hon'ble Supreme Court decision in the case of Ashish Agarwal (supra), the CBDT had issued instruction, based on which, the AO had issued notice u/s.148 of the Act after taking permission from the authorities under clause (i) of section 151 i.e. the Principal Commissioner of Income Tax. A copy of the relevant portion of the instruction [6.2 of the CBDT instruction has been reproduced by the Hon'ble Supreme Court at Para No.15 of the order in the case of Rajeev Bansal (supra)]. Therefore, the Ld.DR doesn't want us to interfere with the action of the AO taking approval from the PCIT for re-opening the case of the assessee.



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6. Heard both the parties, and perused the records, and carefully gone through the orders of the Hon'ble Supreme Court in both Shri Ashish Aggarwal (supra) & Rajeev Bansal (supra), and note that in the present case, three (3) years time limit for AY 2016-17 falls for completion on 31.03.2020. And hence, it falls during the time between 20.03.2020 and 31.03.2021 contemplated u/s.3(1) in Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [herein after in short TOLA]. Resultantly, the authorities *vis-à-vis* u/s.151(i) of the new regime or u/s 151(1) of the old regime, can grant sanction till 30.06.2021 [as per the directions of the Hon'ble Supreme Court in the case of Ashish Agarwal (supra)]. In other words, since three (3) years from the relevant assessment year would have lapsed only 30.03.2020 for AY 2016-17, and since, it falls during the period contemplated u/s.3(1) of TOLA i.e. between 20.03.2020 and 31.03.2021, the authorities empowered u/s.151(1) of the old regime i.e. the Principal Commissioner of Income Tax could have granted sanction to re-open the assessment till the extended period up to 30.06.2021. However, in case, where sanction need to be given after 30.06.2021, then approval/sanction should be given by the authorities empowered under clause (ii) of section 151 of the new regime i.e. Principal Chief Commissioner of Income Tax, and in his absence, the Chief Commissioner of Income Tax.



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7. Reverting back to the present case, the AO is noted to have issued notice u/s.148A(b) of the Act on 23.05.2022, and after the assessee had filed its response to it, the AO is noted to have passed the order u/s.148A(d) of the Act on 26.07.2022 and then, issued notice u/s.148 of the Act with the prior approval of the Principal Commissioner. Since, the AO issued notice u/s 148 on 26.07.2022, [i.e. after 30.06.2021], the AO ought to have taken sanction from the specified authority as given in clause (ii) of section 151 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, then, Chief Commissioner or Director General. Admittedly, in this case, since the AO has taken sanction for issue of notice u/s 148 from authority specified under clause (i) of section 151 i.e. Principal Commissioner, Madurai - 1 and not of the specified authority under clause (ii) of section 151, we find that the AO didn't get valid sanction for issuing reopening notice u/s 148 of the Act on 26.07.2022. And since AO didn't obtain the sanction from the specified authority as specified under clause (ii) of section 151, we are of the view, the assumption of jurisdiction by AO to issue the re-assessment notice u/s.148 of the Act is bad in law.



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8. It is further noted that this legal issue is no longer res integra and note that the aforesaid view of ours have been endorsed Hon'ble Jurisdictional High Court in the case of Core Logistic Company V ACIT in [2025] 175 taxmann.com 453 (Madras) wherein their lordships held as under:-

9. A perusal of Section 151(i) would show that, the specified authority for the purpose of issuing notice under Section 148 within a period of three years from the end of the relevant assessment year is, the Principal Commissioner or Principal Director or Commissioner or Director. Further, in terms of provision of Section 149, three year time period is fixed for issuance of 148 notice, in the event of the amount is below 50 lakhs. In the present case, the amount involved is Rs.3,65,09,748/-, which is more than 50 lakhs. 148 notice was issued on 25.07.2022, which is beyond the period of three years. So admittedly, the approval has to be obtained from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General as defined under Section 151(ii). But, in the present case, the approval was obtained from the Principal Commissioner in terms of Section 151(i) and no approval was obtained before issuance of 148 notice in terms of provision of Section 151(ii), which is mandatory. Therefore, the notice under Section 148 was issued in the present case in violation of provision of Section 151(ii) of the Income Tax Act. In view thereof, the initiation of proceedings itself is without any jurisdiction. Hence, the same is liable to be quashed.

9. Respectfully following the binding decision of Hon'ble Jurisdictional High Court in the case of Core Logistic Company (supra), we allow the legal issue raised by the assessee and quash the notice issue u/s.148 of the Act dated 26.07.2022 being bad in law for not obtaining the prior approval of the authorities empowered under sub-clause (ii) of section 151 of the new regime. Since the legal issue is held in favour of the assessee, which strikes at the root of the jurisdiction of the AO to have



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issued notice u/s.148 of the Act, we find the assessment order dated 22.05.2023 to be non-est in eyes of law.

10. In the result, appeal filed by the assessee is allowed & Stay Petition filed by the assessee is dismissed as infructuous.

Order pronounced on the 11th day of February, 2026, in Chennai.

Sd/-
(सुश्री पद्मावती एस)
(MS. PADMAVATHY S)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 11th February, 2026.
TLN

आदेश की प्रतिलिपि अग्रेषित /**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF