

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH**HYBRID HEARING****BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM****आयकरअपीलसं./ ITA No.630/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2016-17)**

Ms. Mandeep Kaur VPO Museh Ali Hizrawan, Khurd, Fatehabad, Haryana – 125050	बनाम/ Vs.	ITO Ward -1 TO Fatehabad Rohtak - 124001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. DATPK-9813-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Mukesh Kumar Jain (CA) – Ld. AR (Virtual)
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	10.02.2026
घोषणाकीतारीख / Date of Pronouncement	:	16.02.2026

आदेश / O R D E R**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2016-17 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 17-02-2025 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 147 r.w.s. 144 of the Act on 30-04-2023.

2. The Ld. AR, at the outset, urged legal ground no.4 to assail the jurisdiction of Ld. AO. In this ground of appeal, it has been pleaded that the order passed u/s 148A(d) as well as issue of notice u/s 148

was without jurisdiction which make the reassessment proceedings void-ab-initio. To bolster the same, reference has been made to various decisions of Tribunal including the decision of Mumbai Tribunal in the case of **ACIT vs. Surya Ferrous Alloys Pvt. Ltd. (ITA No.1406/Mum/2024 dated 24-12-2024)** as well as the decision of Delhi Tribunal in the case of **Anurag Pandey vs. ITO (ITA No.3924/Del/2024 dated 09-07-2025)** to contend that the specified authority to grant the statutory approval as envisaged u/s 151(ii) would be Ld. Pr. CCIT and not Ld. Pr. CIT. Since no such approval as per the mandate of law has been taken by Ld. AO before passing an order u/s 148A(d) as well as before issuance of notice u/s 148, the reassessment proceedings are bad-in-law. The Ld. AR stated that facts in the present case are pari-materia the same to the facts in the case of **Anurag Pandey (supra)**. The Ld. Sr. DR, on the other hand, referred to CBDT instructions No.1 of 2022 dated 11-05-2022 to support the validity of reassessment proceedings. To counter the same, Ld. AR stated that the instructions could not override the prescription of statutory provisions and when an approval has been envisaged in a specified manner, the same should be obtained in that specified manner only. Having heard rival submissions, the appeal is disposed-off as under.

3. From the case records, it emerges that the assessee filed return of income on 27-09-2016 which was subjected to limited scrutiny wherein the return of income was accepted vide order dated 15-11-2018. Subsequently, forming an opinion of escapement of income, a

notice u/s 148 was issued by Ld. AO on 01-04-2021 after necessary satisfaction of Range-1, Hisar. The validity of such notices u/s 148 as issued between 01-04-2021 to 30-06-2021 were subject matter of extensive litigation before Hon'ble Supreme Court in bunch of petition titled as CA Nos.3005/2022 &ors. dated 04-05-2022 **UOI vs. Ashish Agarwal & Others**. The Hon'ble Court, inter-alia, held that all such notices would be deemed to have been issued u/s 148A of the Income Tax Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Sec.148A(b) of the Act. Thus, these notices, were deemed to be show-cause notices u/s 148A(b) in the new regime of reassessment proceedings.

4. Pursuant to the said judgment, CBDT issued instruction no. 01/2022 on 11-05-2022 detailing the procedure to be followed in compliance with the order of Hon'ble Supreme Court. Considering the same, the underlying information / material as relied upon by Ld. AO on the basis of which proceedings u/s 148 were initiated on 01-04-2021, was supplied to the assessee vide letter dated 29-05-2022 which is kept on record. The assessee was required to respond to the same by 15-06-2022. The assessee's submissions stood rejected by Ld. AO vide an order u/s 148A(d) dated 28-07-2022 and it was alleged that the assessee obtained accommodation entry in the garb of bogus Long-Term Gain / Loss on sale of various scrips. Accordingly, an opinion was formed for issuance of statutory notice u/s 148. This order is, undisputedly, passed with the approval of Ld. Pr. CIT, Rohtak which was granted vide letter no. 2022-23/2404 dated 28-07-2022.

Accordingly, notice u/s 148 was issued by Ld. AO on 29-07-2022 which is also placed on record. This notice also bears the same approval reference i.e., approval of Ld. Pr. CIT, Rohtak vide letter no. 2022-23/2404 dated 28-07-2022. In other words, the order u/s 148A(d) as well as statutory notice u/s 148 bears the same approval of Pr. CIT, Rohtak vide letter no. 2022-23/2024 dated 28-07-2022. The consequential assessment has been framed on 30-04-2023 making impugned addition in the hands of the assessee. The assessment stood confirmed by Ld. CIT(A) vide order dated 17-02-2025 against which the assessee is in further appeal before us.

5. The sole legal ground as urged by Ld. AR is that since the case has been reopened beyond 3 years from the end of relevant Assessment Year (three years for AY 2016-17 expire on 31-03-2020), the specified authority as per Sec.151(ii) competent to grant the requisite approval would be Ld. Pr. CCIT whereas the approval has been taken by Ld. AO from PCIT-1, Rohtak which is not the specified authority in the case of the assessee as per the provisions of Sec. 151(ii) of the Act.

6. We find that Hon'ble Supreme Court, in subsequent decision titled as **UOI vs. Rajeev Bansal (167 Taxmann.com 70 dated 03-10-2024)**, after the fall out of its own decision in the case of **Ashish Agarwal (supra)**, dealt with the issue of sanction of the specified authority and concluded that TOLA will extend the time limit for the grant of sanction by the authority specified u/s.151. As per this decision, the test to determine whether TOLA will apply to Sec. 151 of

the new regime would be that if the time limit of three years from the end of the Assessment Year falls between 20-03-2020 and 31-03-2021 then in such a case, the specified authority u/s.151(i) has extended time till 30-06-2021 to grant the approval. According to the Hon'ble Court, Assessing Officers were required to issue the re-assessment notice u/s.148 of the new regime within the time limit surviving under the Act read with TOLA. All notices issued beyond the surviving period were held to be time barred and liable to be set aside. The crucial points have elaborately been dealt with by Hon'ble Court in Part E of its decision in para 73 to 78 which are extracted below:

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. 128 A table representing the prescription under the old and new regime is set out below:

<i>Regime</i>	<i>Time limits</i>	<i>Specified authority</i>
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 AshishAgarwal (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 years 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 Agrawal (supra)* directed the Assessing Officers to "pass orders in terms of Section 148-A(d) in respect of each of the assessee concerned." Further, it directed the Assessing Officers to issue a notice u/s.148 of the new regime "after following the procedure as required u/s.148-A." Although this quote waived off the requirement of obtaining prior approval u/s.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 u/s. 148A(d) or issuing a notice u/s.148. These notices ought to have been issued following the time limits specified u/s.151 of the new regime r.w. TOLA, where applicable....

114. In view of the above discussion, we conclude that:

a. After 1 April 2021, the Income-tax Act has to be read along with the substituted provisions;

- b. TOLA will continue to apply to the Income-tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income-tax Act falls for completion between 20 March 2020 and 31 March 2021;
- c. Section 3(1) of TOLA overrides Section 149 of the Income-tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under section 148;
- d. TOLA will 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 extended time till 30 June 2021 to grant approval;
- e. 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 extended time till 31 March 2021 to grant approval;
- f. The directions in Ashish Agarwal (supra) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 2021;
- g. The time during which the show cause notices were deemed to be stayed is from the date of issuance of the deemed notice between 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra), and the period of two weeks allowed to the assesses to respond to the show cause notices; and
- h. The assessing officers were required to issue the reassessment notice under section 148 of the new regime within the time limit surviving under the Income-tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside;

We find that, in Para 75, it has categorically been mentioned by Hon'ble Court that after 01-04-2021. in terms of Ashish Agrawal (supra), the prior approval must be obtained from the appropriate authorities specified u/s.151 of the new regime. In Para 81, it has specifically been stated that the AO is required to obtain prior approval of the specified authority according to Sec. 151 of the new regime before passing an order u/s.148A(d) or before issuing a notice u/s.148. According to the Hon'ble Court, though the requirement to obtain prior approval as prescribed u/s 148A(a) and 148A(b) were waived-off, the requirement of approval u/s Sec.148A(d) and issuance

of notice u/s 148 was not waived-off and these requirements were to be fulfilled.

7. In the present case, the relevant Assessment Year is 2016-17 and the time limit of three years lapsed on 31-03-2020 which falls between 20-03-2020 and 31-03-2021 during which provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) would apply. Accordingly, the amended provisions under the Act read with TOLA extended the time limit for granting of approval till 30-06-2021 by the specified authority. However, three years were already elapsed from the end of the Assessment Year when the order u/s.148A(d) and notice u/s.148 was issued on 28-07-2022. Since the notice u/s. 148 and order u/s. 148A(d) have been issued beyond the period of three years from the end of the relevant Assessment Year, the case of the assessee would fall within the provisions of Sec. 151(ii) of the amended law whereby the specified authority for grant of approval would be Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. Contrary to this requirement, the approval has been obtained from Pr. CIT, Rohtak. Accordingly, since a proper sanction by the specified authority has not been obtained for issuance of notice u/s.148, the said notice is invalid and bad-in-law. This being so, the reassessment proceedings would stand vitiated and liable to be set aside.

8. We find that identical issue has been dealt with by Delhi Tribunal in the cited case of **Anurag Pandey**. By referring to the decision of Mumbai Tribunal in **Manish Financial (ITA No. 5050/Mum/2024 dated 02-12-2024)** as well as the decision of Hon'ble Madras High Court in **Core Logistic Company (WP No.18168 dated 05-06-2025)**, the bench finally held as under; -

9. Thus, Hon'ble Madras High Court has also held that while issuing notice u/s 148 the Id AO has to obtain prior approval of the specified authority as defined in Section 151 and that in the cases for AY 2016-17 where more than 3 years had elapsed, compliance has to be made to mandate given in Section 151 (ii) of the Act. It has been clearly ruled that any noncompliance to above would render the notices per se, infructuous and therefore to be quashed.

10. We have noted that the facts of the present case are identical to those discussed in the judicial precedents hereinabove. The revenue has not been able to point out any distinguishment. Statutory provisions of the Income Tax Act as well as judicial precedents setting by Hon'ble Apex Court in the case of Rajeev Bansal, Hon'ble Madras High Court in the case of Core Logistics and ITAT Mumbai Bench in the case of Manish Financials clearly mandate that in cases where notice u/s 148 is to be issued beyond a period of 3 years than, the Id AO is required to obtain prior approval of Pr. CCIT as provided in Section 151(ii) of the Act. We have noted that in the present case notice u/s 148 dated 16.07.2022 was issued with the prior approval of Pr. CIT. Accordingly, the impugned notice is not supported by authority of law and hence, hereby quashed. The consequent assessment order u/s 147 r.w.s. 144B dated 29.05.2023 would also not survive. The ground of appeal NO. 2 raised by the assessee is therefore allowed.

9. We find that in the present case, we are faced with similar facts. Respectfully following these decisions, taking the same view, we would hold that in the absence of approval of specified authority as envisaged u/s 151(ii), the impugned reassessment proceedings would be bad-in-law. Delving into other grounds as well as on merits of the case has been rendered mere academic in nature. The assessee succeeds on this first and foremost legal ground alone.

10. The appeal stand allowed.

Order pronounced on 16th February, 2026.

-Sd-
(RAJPAL YADAV)
VICE PRESIDENT

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated:16.02.2026

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH