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

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 5754/Mum/2025
(Assessment Year: 2017-18)

M/s. Rajeshwar Bullion Trading 2nd Floor, 61/63, Har Narayan Building, Zaveri Bazar, Mumbai-400 002	Vs.	Income Tax Officer Ward 23(3)(6) Mumbai
PAN/GIR No. AASFR 7707 D		
(**Assessee**)	:	(**Revenue**)

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ITA No.6132/Mum/2025
(Assessment Year: 2017-18)

Income Tax Officer Ward 23(3)(6) Mumbai	Vs.	M/s. Rajeshwar Bullion Trading 2nd Floor, 61/63, Har Narayan Building, Zaveri Bazar, Mumbai-400 002
PAN/GIR No. AASFR 7707 D		
(**Revenue**)	:	(**Assessee**)

Appellant by	:	Shri Dhran Gandhi
Respondent by	:	Shri Annavaram Kosuri (Sr. AR)

Date of Hearing	:	16.02.2026
Date of Pronouncement	:	20.02.2026

O R D E R

Per Saktijit Dey, Vice President:

The captioned appeals, one by the assessee and the other by the Revenue arise out of two separate orders passed by National Faceless Appeal Centre ('NFAC' for short), Delhi, pertaining to the very same assessment year (A.Y. for short) 2017-18. However, while assessee's appeal arises out of original assessment proceeding, the Revenue's appeal arises out of reassessment proceeding u/s. 147 of the Act.

2. At the outset, we will deal with assessee's appeal, being ITA No.5754/Mum/2025. In ground nos. 1 & 2, the assessee has challenged the decision of ld. First appellate authority in remanding the issue back to the Assessing Officer (A.O. for short) for *de novo* adjudication. Whereas, in ground no. 3, the assessee has challenged the non-adjudication of the ground relating to the applicability of section 115BBE of the Act. Since, the issues are overlapping, we will deal with them concurrently.

3. Briefly the facts are, the assessee is a partnership firm. For the assessment year under dispute, the assessee filed its return of income on 15.09.2017, declaring income of Rs.44,15,320/-. The return of income filed by the assessee was selected for scrutiny. In course of assessment proceeding, the A.O., from time to time, called upon the assessee to furnish various information and details relation to its business. From the details furnished, more particularly the bank statement, the A.O. noticed that during the demonetization period, substantial cash deposits were found to have been made in the bank account. While verifying further, he found that there was substantial increase in the cash sales between the month of September, 2016 and March, 2017, aggregating to Rs.68,81,327/-. Thus, he called upon the assessee to explain why the cash sales reported during the demonetization period should not be treated as non-genuine. Though the assessee objected to the proposed action of the A.O., however, rejecting the submissions of the assessee, the A.O. proceeded to treat the cash sales made during the period April, 2016 upto 08.11.2016 as concocted and added back an amount of Rs.38,92,692/- to the income of the assessee by invoking the provisions of section 68 of the Act. While doing so, he applied higher rate of tax in terms with section 115BBE of the Act.

4. Against the assessment order so passed, the assessee filed an appeal before ld. First appellate authority.

5. After considering the submissions of the assessee, in the context of the facts and materials on record, ld. First appellate authority, though, agreed that before rejection of books of accounts, the A.O. has not provided any opportunity of being heard, however, instead of deciding the appeal on merits, he restored the issues back to the A.O. with a direction to reexamine the genuineness of the cash sales and cash deposits in the bank account during demonetization period.

6. Before us, ld. Counsel appearing for the assessee contested the decision of ld. first appellate authority in setting aside the issue to the A.O. Drawing our attention to the assessment order, he submitted, all relevant details in relation to cash sales and cash deposits were furnished before the A.O. He submitted, merely alleging that the assessee could not furnish PAN of all persons to whom sales were made, the A.O. has treated the cash sales as concocted and made the addition after rejecting the books of account. He submitted, while rejecting the books of account, the A.O. has neither provided any opportunity to the assessee to have its say on the correctness of the books of accounts, but has failed to point out any specific defect/deficiency in them. Thus, he submitted, when all supporting evidences are on record, the A.O. should not have made the addition on flimsy ground. He submitted, since contemporariness evidences were available before ld. first appellate authority, instead of deciding the appeal on merits, he should not have remitted the issue to the A.O. Proceeding further, he submitted, when the assessee has already offered the cash sales as income, the A.O. could not have added a part of it merely because cash deposits were found during the demonetization period.

7. Without prejudice, ld. Counsel submitted, the A.O. committed error by applying higher tax rate in terms with section 115BB of the Act as such special tax rate is applicable w.e.f. 01.04.2017 and assessment year A.Y. 2018-19 onwards. In support of his contention, ld. Counsel relied upon the following decisions:

- *Harisons Diamonds (P.) Ltd. vs. ACIT* [2024] 161 taxmann.com 669 (Delhi-Trib.)
- *CIT vs. Uttaranchal Welfare Society* [2014] 42 taxmann.com 361 (Allahabad)
- *Ms. Lalitha Padmaja Thallapalli vs. ITO* [2025] 181 taxmann.com 369 (Hyd.-Trib)

8. Learned Departmental Representative (ld. DR for short) submitted, since the assessee has raised a ground of violation of rules of natural justice, ld. First appellate authority was justified in restoring the issue to the A.O.

9. We have considered rival submissions and perused the materials available on record. We have also applied our mind to the decisions relied upon. The dispute in the present appeal is with regard to addition made on account of cash deposited in the bank account during the demonetization period. The assessee is in the business of purchase and sale of gold bullion. In the year under consideration, the assessee had reported cash sales, which are duly recorded in the books of account. In course of assessment proceeding, the A.O. had found cash deposits in the bank account during the demonetization period. The assessee had explained such cash deposits to be out of the cash sales made during the year. It is evident, though the assessee furnished the relevant purchase and sale invoices, the details of persons to whom sales were made and other supporting evidences to establish its claim that the cash deposits made in the bank account were out of cash sales made during the year, however, merely alleging that the assessee could not provide PAN of all persons to whom sales were made, the A.O. has treated the cash deposits of Rs.38,92,692/- as

'unexplained cash credit' and added to the income of the assessee. It is evident, in course of proceedings before ld. First appellate authority, the assessee has again furnished following supporting evidences:

a) Date wise and item-wise stock register for the period 01.04.2016 till 31.03.2017
b) Date wise and item wise sales register for the period 01.04.2016 till 31.03.2017
c) Complete details of purchases including name of party, amount of purchases, PAN address and VAT details.
d) Complete details of payments to the parties from whom purchases were made
e) Complete details of sales including name of parties, amount of sales, PAN wherever available, address and VAT details.
f) Complete details of VAT returns

10. It is noteworthy, in the assessment order, except alleging that PAN of the persons to whom sales are made are not available, the A.O. has not made any adverse observations regarding the authenticity of books of account and other supporting evidences. In fact, the very same evidences were again verified by ld. First appellate authority and nothing suspicious was found. Even, ld. First appellate authority has recorded a categorical finding of fact that before rejecting the books of account, the A.O. has neither given any opportunity to the assessee nor pointed out the specific defect/deficiency. Thus, when all verifiable evidences were available before the departmental authorities, merely because PAN of some persons to whom sales are made are not available, a part of the cash deposits made out of cash sales could not have been treated as income of the assessee. The judicial precedents cited before us by ld. Counsel for the assessee support this view. Accordingly, we set aside the impugned order of ld. First appellate authority and direct the A.O. to delete the addition made of Rs.38,92,692/-.

11. In view of our decision above, the other issue raised by the assessee regarding the applicability of section 115BBE of the Act having become academic, does not require adjudication at this stage, hence, kept open.

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

13. Insofar as Revenue's appeal, being ITA No. 6132/Mum/2025 is concerned, the assessee through letter dated 03.02.2026 has made an application purportedly under Rule 27 of the Income Tax Appellate Tribunal Rules seeking to support the decision of ld. First appellate authority on the ground that the proceeding initiated u/s. 147 of the Act are invalid due to lack of proper sanction. Since, the aforesaid issue raised by the assessee is a purely legal and jurisdictional issue, going to the root of the matter and affecting the validity of the impugned assessment order, we propose to deal with the issue at the very outset. It is the say of the assessee that by the time the A.O. passed the order u/s. 148A(d) of the Act and issued notice u/s. 148 of the Act on 31.07.2022, more than three years have elapsed from the end of the relevant assessment year. Therefore, the competent authority who could have granted approval /sanction in terms of section 151(ii) of the Act is the Principal Chief Commissioner of Income Tax ('PCCIT' for short) or Chief Commissioner of Income Tax ('CCIT' for short). Whereas, he submitted, the A.O. has obtained the approval/sanction of Principal Commissioner of Income Tax ('PCIT' for short). Thus, he submitted, since approval/sanction for passing order u/s. 148A(d) of the Act and issuance of notice u/s. 148 of the Act has not been taken from the competent authority, not only such order/notice are invalid, but the proceedings in pursuance thereof culminating in the impugned order are also invalid. In support of such contention, ld. Counsel relied upon the following decisions:

1) *Union of India vs. Rajeev Bansal* [2024] 167 taxmann.com 70 (SC)
2) *Alag Property Construction (P.) Ltd. vs. ACIT* [2025] 179 taxmann.com 578 (Bom)

14. Ld. Departmental Representative (ld. DR for short) submitted, since, the time limit for reopening of assessment was further extended by The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA), the approval u/s. 151 of the Act was rightly taken from PCIT who was the competent authority.

15. We have considered the rival submissions and perused the materials on record. Factually, there is no dispute that the order u/s. 148A(d) of the Act and notice u/s. 148 of the Act were issued on 31.07.2022 after expiry of three years from the end of the assessment year in dispute, i.e., 2017-18. Regard being had to section 151 of the Act, the competent authority who can grant approval/sanction in terms with clause (ii) u/s. 151 is PCCIT or CCIT, whereas, a reference being made to the notice issued u/s. 148 of the Act and the order passed u/s. 148A(d) of the Act in case of the assessee on 31.07.2022 clearly demonstrate that approval/sanction was obtained from PCIT-19, Mumbai. Thus, they are not in strict compliance with the provision contained u/s. 151(ii) of the Act. In case of *Union of India vs. Rajeev Bansal* (supra), the Hon'ble Supreme Court, while dealing with the issue has held as under:

> *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 assesse 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:*
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> > *(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*
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> > *(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; 129
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 Taxmann 21 (SC)/[2024] 6 SCC 267.

16. Following the decision of Hon'ble Apex Court in case of *Union of India vs. Rajeev Bansal* (supra), the Hon'ble Jurisdictional High Court in case of *Alag Property Construction (P.) Ltd.*(supra) has held as under:

> *8. On bare reading of the above extract of the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra), we find that the Hon'ble Supreme Court had clarified as under:*
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> | *(a)* | *Under the substituted provisions of re-assessment 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 - at the first stage under Section 148A(a), at the second stage under Section 148A(b), at the third stage under Section 148A(d), and at the fourth stage under Section 148. In the case of Ashish Agarwal (supra) the Hon'ble Supreme Court waived off the requirement of obtaining prior approval under section 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 under Section 148A(d) or for issuing a notice under Section 148.* |
> | *(b)* | *Under the new regime, if income escaping assessment is more than Rupees 50 lakhs, a reassessment notice could be issued after the expiry of three years from the end of the relevant previous year only after obtaining the prior approval of the Principal Chief Commissioner or the Principal Director General or the Chief Commissioner or the Director General.* |
> | *(c)* | *Section 151(ii) of the new regime prescribes an approval of a higher 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 vitiates their jurisdiction to issue a notice under section 148.* |
> | *(d)* | *Grant of sanction by the specified authority is a precondition for the assessing officer to assume jurisdiction under section 148 to issue a reassessment notice.* |
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> *9. In the present case, the period of three years from the end of the A.Y. 2017-18 fell for completion on 31st March 2021. As the expiry date fell during the time period of 20th March 2020 and 31st March 2021, under Section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short "TOLA"), the authority specified under Section 151(i) of the new regime could have granted sanction only till 30th June 2021.*
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> *10. On perusal of the order dated 18.08.2022, passed under Section 148A(d) of the Act we find that the aforesaid order was passed after taking approval from Principal Commissioner of Income Tax (Respondent No.2). Since the aforesaid order was passed, as well as the notice under section 148 was issued, after the expiry of three years from the end of A.Y. 2017-18, as per the substituted provisions of re-assessment, the authority specified under Section 151(ii) of the Act (i.e. Principal Chief Commissioner or Chief Commissioner) was required to grant approval. Accordingly, we conclude that in the present case, the approval has been obtained from the authority specified under Section 151(i) of the new regime instead of the authority specified under Section 151(ii) of the new regime.*
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> *11. The Hon'ble Supreme Court in the above case has drawn an illustration in para 78 of its order in the context of A.Y. 2017-18 (which is also the relevant Assessment year in the present Writ Petition) wherein it is categorically held that the authority specified under section 151(i) can accord sanction only upto 30.06.2021. This illustration makes it absolutely clear that when the period of three years from end of relevant Assessment Year expired between 20.03.2020 and*

31.03.2021, the extension by virtue of TOLA was upto 30.06.2021 and not beyond. Thus, it can be said that the period of three years from the end of the relevant Assessment Year (in the present case A.Y. 2017-18) expired on 30.06.2021, whereas Respondent No.1, despite passing order under section 148A(d) on 18.08.2022, and issuing notice under section 148 on 23.08.2022 [in respect of Assessment Year 2017-18], has obtained approval of Respondent No.2 who is not the authority as prescribed under section 151(ii).

12. Non-compliance by Respondent No.1 with the provisions contained in Section 148A(d) read with Section 151(ii) vitiates the jurisdiction of Respondent No.1 to issue a notice under Section 148 of the Act.

13. We are clearly of the view that the present matter stands covered by the decision of Hon'ble Supreme Court in the case of Rajeev Bansal (supra) and we are bound by it. Accordingly, we hold that the order dated 18.08.2022 passed under Section 148A(d) of the Act and the consequential notice issued under section 148 dated and 23.08.2022 are bad in law, and hence, are required to be quashed and set aside.

14. We accordingly set aside the impugned order dated 18.08.2022 passed under Section 148A(d) of the Act and the consequential notice issued under section 148 dated 23.08.2022, and all other proceedings/orders emanating therefrom.

17. Though, subsequently, a proviso u/s. 151 of the Act was introduced w.e.f. 01.04.2023, synchronizing the provision contained u/s. 149(1) and 151(i) of the Act, however, Hon'ble Jurisdictional High Court in number of decisions have held that such amendment would apply prospectively and not to any assessment year prior to 01.04.2023. In this view of the matter, we are of the considered opinion that the order u/s. 148A(d) and notice u/s. 148 of the Act having not been issued with the approval of the competent authority in terms with section 151(ii) of the Act, the proceedings are vitiated, hence, invalid. Since, the assumption of jurisdiction u/s. 147 of the Act by the A.O. in absence of a valid sanction is vitiated, we deem it appropriate to quash the notice issued u/s. 148 of the Act. Resultantly, the assessment order passed in pursuance thereof deserves to be quashed. Accordingly, we uphold the decision of ld. First appellate authority in quashing the assessment order though on a completely different reasoning of our own. Grounds are dismissed.

18. In the result, the appeal is dismissed.

19. To sum up, assessee's appeal is allowed and Revenue's appeal is dismissed.

Order pronounced in the open court on 20.02.2026

Sd/-	Sd/-
(Makarand V. Mahadeokar)	(Saktijit Dey)
Accountant Member	Vice President

Mumbai; Dated : 20.02.2026
Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai