

**आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक**  
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.820/CTK/2025  
(निर्धारण वर्ष / Assessment Year : 2016-2017)

Pradyumna Kumar Lath, At-Dalki, PO: Jharsuguda, Dist: Jharsuguda-768201	Vs	ACIT, Circle Rourkela, Rourkela
PAN No. :AAOPL 7797 H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, Advocate
राजस्व की ओर से /Revenue by	:	Shri Sanjib Banerjee, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	25/02/2026
घोषणा की तारीख/Date of Pronouncement	:	25/02/2026

**आदेश / O R D E R**

**Per Bench :**

This is an appeal filed by the assessee against the order of the Ld.CIT(A), National Faceless Appeal Centre (NFAC), dated 18.11.2025 for the assessment year 2016-2017.

2. It was submitted by the Ld.AR that the impugned assessment year is 2016-17. It was submission that notice u/s.148 of the Act came to be issued on 28/07/2022. The Ld. AR drew our attention to the copy of the notice issued which reads as follows:-



GOVERNMENT OF INDIA  
OFFICE OF THE ASST. COMMISSIONER OF INCOME TAX,  
ROURKELA CIRCLE, AAYAKAR BHAWAN, UDITNAGAR,  
ROURKELA-769012.

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To, PRADYUMNA KUMAR LATH DALKI JHARSUGUDA JHARSUGUDA 768201, Orissa India	
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PAN: AAOPL7797H	A.Y 2016-17	Dated 28.07.2022	DIN & Notice No.
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Notice under section 148 of the Income-tax Act, 1961

Sir/Madam/M/s.

1. (A) I have the following information in your case or in the case of the person in respect of which you are assessable under the Income Tax Act, 1961 (hereinafter referred to as "the Act") for Assessment Year 2016-17 :-

- Information flagged by the risk management strategy formulated in this regard;
- Final objection has been raised by the Comptroller and Auditor General of India to the effect that the assessment has not been made in accordance with the provisions of Act;
- A survey was conducted under section 133A of the Act, other than under section 133A (2A) or section 133A(5) of the Act,
- Information which requires action in consequence of the judgement of the Hon'ble Supreme Court in the case Union of India Vs. Ashish Agarwal, Civil Appeal 3005/2022, dated 4th May, 2022.

Suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/COM/F/17/2022-23/1044247697(1) dated 28.07.2022 and annexed herewith for reference.


(B) I have information that a search was initiated under section 132 of the Act in your case or in the case of the person in respect of which you are assessable under the Act on the date \_\_\_\_\_.

(C) I have information that books of accounts, other documents or any assets have been requisitioned under section 132A of the Act in your case or in the case of the person in respect of which you are assessable under the Act.

(D) I am satisfied, with the approval of Principal Commissioner or Commissioner, that money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A of the Act in case of \_\_\_\_\_ relate to you or the person in respect of which you are assessable under the Act.

(E) I am satisfied, with the approval of Principal Commissioner or Commissioner, that books of accounts or documents, seized or requisitioned under section 132 or section 132A of the Act in case of \_\_\_\_\_ pertains or pertain to, or any information contained therein, relate to you or the person in respect of which you are assessable under the Act.

2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Year 2016-17 and I, hereby, require you to furnish, within 30 days from the service of this notice, a return in the prescribed form for the Assessment Year 2016-17.
3. This Notice is being issued after obtaining the prior approval of the Pr.CIT, Sambalpur accorded on date 27.07.2022 vide Reference No Pr.CIT/SBP/Estt/2022-23/1840.

  
MAGPEN BHUTIA  
ASSISTANT COMMISSIONER OF INCOME TAX  
ROURKELA CIRCLE, ROURKELA

3. It was the submission that the notice u/s.148 of the Act has been issued beyond 03 years. It was submission that the approval for the issuance of notice u/s.148 of the Act beyond 03 years which should be granted by Pr.CCIT. It was submission that approval has been obtained

from the Pr.CIT, Sambalpur. It was submission that the approval is wrong and consequently, the notice issued u/s.148 of the Act is bad in law.

4. In reply, Ld.Sr. DR submitted that the principle of TOLA would apply in the present case. He vehemently supported the orders of the AO and CIT(A).

5. We have considered the rival submissions. We find that the assessment was reopened after 03 years from the end of the relevant assessment year by issuing notice u/s 148 of the Act on 28.07.2022 whereas the assessment year involved is 2016-2017 and, thus, is beyond three years from the end of the relevant assessment year. Therefore, in term of section 151 of the Act, the approval was required to be taken from the Id. Pr.CCIT, whereas the AO has taken approval from Id. Pr.CIT-1, Sambalpur. Accordingly, in our opinion, the approval has not been granted by the competent authority as prescribed under the Act under section 151(ii) of the Act. Therefore, the notice issued u/s 148 of the Act with consequent assessment are nullity and bad in law. The issue is covered by the decision of Hon'ble Bombay High Court in Writ Petition No.3249 of 2022 in case of Agnello Oswin Dias Vs. ACIT dated 22.02.2024, wherein it has held as under:-

*"4. The impugned order and the impugned notice both dated 22 April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai-5. The matter pertains to Assessment Year ("AY") 2018-2019 and since the impugned order as well as the notice are issued on 22 April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151 (ii) of the Act. The proviso to Section 151 of the Act has been inserted only with effect from 1" April 2023 and, therefore, shall not be applicable to the matter at hand.*

5. *In the circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., the sanction is invalid and consequently, the impugned order and impugned notice both dated 22nd April 2022 under Sections 148A(d) and 148 of the Act are hereby quashed and set aside.”*

6. Similarly, decision of Hon'ble Bombay High Court in case of Vodafone Idea Ltd. Vs. DCIT vide WP No. 2768 of 2022 dated 06.02.2024, wherein it has followed the decision of Agnello Oswin Dias (supra), as under:-

*“1. Petitioner is impugning a notice dated 19 March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order passed under Section 148A(d) of the Act and the notice both dated 7th April 2022 issued under Section 148 of the Act. One of the grounds raised is that the sanction to pass the order under Section 148A(d) of the Act and issuance of notice under Section 148 of the Act is invalid inasmuch as the sanction has been admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").*

*2. Petitioner's request for a copy of the sanction has also been denied. Even in the affidavit in reply, the Department is refusing to give the sanction which makes us wonder what is the national secret involved in that, that Assessee is being refused what he is rightfully entitled to receive from the Department. In the affidavit in reply, the stand taken by the Revenue is it will be made available during the re-assessment proceeding.*

*3. The impugned order and the impugned notice both dated 7th April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai 5. The matter pertains to Assessment Year ("AY") 2018-19 and since the impugned order as well as the notice are issued on 7th April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151 (ii) of the Act. The provisio to Section 151 has been inserted only with effect from 1 April 2023 and, therefore, shall not be applicable to the matter at hand.*

*4. In these circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., the sanction is invalid and consequently, the impugned order and impugned notice both dated 7th April 2022 under section 148A(d) and 148 of the Act are hereby quashed and set aside.*

*5. Petition disposed. No order as to costs. All rights and contentions are kept open.*

*6. For completion of record, Respondents are directed to make available to Petitioner copy of the approval form as well as the approval accorded for issuance of order under Section 148A(d) and Section 148 of the Act within one week from this order being uploaded.”*

7. Similarly, in the case of Haresh Kumar Dungarmal Jain Vs. DCIT vide ITA No. 1933/PUNE/2024 vide order dated 24.02.2025 & Davos International Fund Vide ITA No.1190/MUM/2024, dated 13.01.2025 the issue is decided on the same lines. Similar ratio has been laid down in the cases as decided by the Hon'ble Bombay High Court Alag Property Construction Private Limited Vs ACIT Writ Petition No. 3938 of 2022 order dated 8.9.2025 and in Ramesh Bachulal Mehta Vs Income Tax Officer (2025) 177 taxmann.com 606 (Bom).

8. Further the Hon'ble Supreme Court in the case of ACIT, International Taxation Vs. LinkedIn Singapore Pte. Ltd., reported in [2025] 180 taxmann.com 158 (SC) has dismissed the SLP filed by the revenue and upheld the decision of the Hon'ble Bombay High Court wherein it was held that where approval for initiation of reassessment proceedings was granted by Commissioner after expiry of 3 years from end of relevant assessment year, said approval should have been granted by Principal Chief Commissioner, thus, impugned order passed under section 148A(d) of the Act and impugned notice issued under section 148 of the Act were to be quashed.

9. A perusal of the facts in the present case clearly shows that the law as on the date for issuance of notice has been repeatedly held by various

Hon'ble High Courts and the Hon'ble Apex Court. As in the present case it is noticed that the notice u/s.148 of the Act dated 28.07.2022 has been issued on the approval granted by the Principal Commissioner of Income Tax, however, the approval was required to be granted in such cases by the Principal Chief Commissioner of Income Tax. The notice u/s.148 of the Act has been issued beyond the period of 03 years from the end of the impugned assessment year. As it is noticed that the approval is to be granted in such cases by the Pr. Chief Commissioner of Income Tax but the approval for issuance of notice u/s.148 of the Act has been granted by the Pr. Commissioner of Income Tax, therefore, respectfully following the above judicial pronouncements, the approval granted in the case of the assessee for the year under consideration is held to be invalid and accordingly the notice u/s.148 of the Act beyond the period of 03 years from the end of the impugned assessment year, stands quashed. Consequently, the assessment order passed as consequence of the invalid notice issued 148 of the Act also stands quashed.

10. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 25/02/2026.

**Sd/-**  
**(MADHUSUDAN SAWDIA)**

लेखा सदस्य/ ACCOUNTANT MEMBER

दिनांक Dated 25/02/2026

*Prakash Kumar Mishra, Sr.P.S.*

**Sd/-**  
**(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant -
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Assistant Registrar)****आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack**