

**` IN THE INCOME TAX APPELLATE TRIBUNAL  
"J(SMC)" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER  
BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.263/MUM/2026  
(Assessment Year: 2017-2018)**

**Sapna Umesh Dutta**

Golden Willows Co-Op. Hsg. Soc. Ltd.,  
L.B.S. Marg, Mulund (West), Mumbai  
[PAN:APNPD0142C]

..... **Appellant**

Vs

**Income Tax Officer Ward 41(2)(5),  
Mumbai**

Kautilya Bhavan, C-41 to C-43, G Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai – 400051, Maharashtra.

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Tanmay Phadke  
For the Respondent/Department : Shri Aditya Rai

**Date**

Conclusion of hearing : 23.02.2026  
Pronouncement of order : 26.02.2026

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal has been preferred by the Assessee against the order, dated 27/11/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the '**CIT(A)**'], whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 23/05/2023, passed under Section 147 of the Income Tax Act, 1961 [hereinafter referred to as '**the Act**'], for the Assessment Year 2017-2018.
2. The relevant facts in brief are that notice under Section 148 of the Act (old regime) was issued to the Assessee for the Assessment Year 2017-2018 on 31/05/2021. Subsequently, in

compliance with the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Ashish Agarwal 444 ITR 1 (SC) [04/05/2022], the aforesaid notice issued under Section 148 of the Act (*under old regime*) would be treated as the show-cause notice issued in terms of Section 148A(b) of the Act (*under new regime introduced by the Finance Act, 2021 w.e.f. 01/04/2021*). The Assessing Officer also shared with the Assessee material/information on the basis of which the Assessing Officer had formed a belief that income had escaped assessment. The Assessee filed reply. Thereafter, The Assessing Officer passed Order under Section 148A(d) of the Act on 31/07/2022 and issued notice under Section 148 of the Act on 31/07/2022. Before passing Order, under Section 148A(d) of the Act and issuing notice dated 31/07/2022, the Assessing Officer obtained approval/sanction from the Principal Commissioner of Income Tax, Mumbai. The reassessment proceedings culminated into passing of the Assessment Order, dated 23/05/2023, under Section 147 of the Act. The appeal preferred by the Assessee against the aforesaid Assessment Order was dismissed by the CIT(A) vide Order, dated 27/11/2025. Being aggrieved, the Assessee has preferred the present appeal before the Tribunal challenging the validity of the re-assessment proceedings raising, inter alia, the following grounds:

- "1. *On the facts and in the circumstances of the case and as per the law, the jurisdictional notice dated 31.07.2022 was issued under Section 148 of the Act by a jurisdictional officer and not a faceless assessing officer contrary to the provisions of Section 151A of the Act vitiating the entire assessment at the threshold. The assessment order dated 23.05.2023 being without jurisdiction and bad in law may be quashed and the impugned order dated 27.11.2025 passed by the learned National Faceless Appeal Centre/ Commissioner (Appeals) may be set aside and quashed.*
2. *On the facts and in the circumstances of the case and as per the law, the requirements of section 151 of the Act were not*

*complied with. The approval from the competent authority was not obtained prior to the issuance of the notice under section 148 of the Act invalidating the notice as well as the entire assessment and the impugned order dated 27.11.2025 passed by the learned National Faceless Appeal Centre/ Commissioner (Appeals). Thus, the same may be quashed being without jurisdiction, illegal and bad in law."*

3. We have heard both the sides and have perused the material on record in relation to this issue. We have also taken into consideration the judicial precedents cited during the course of hearing.
4. There is no dispute as to facts. It is admitted position that the notice issued under Section 148 of the Act (old regime) was treated as notice issued under Section 148A(b) of the Act by the Assessing Officer. Thereafter, Order under Section 148A(d) of the Act was passed and notice under Section 148 of the Act (new regime) was issued on 31/07/2022 after obtaining approval of the Principal Commissioner of Income Tax.
5. The case of the Assessee is that since notice under Section 148 of the Act (new regime) was issued after the expiry of 3 years from the end of the relevant assessment year, approval of the higher authority - Principal Chief Commissioner of Income Tax should have been obtained under Section 151(ii) of the Act. The stand taken by the Revenue is that the notice originally issued under Section 148 of the Act (old regime) was issued after obtaining sanction from appropriate authority. Therefore, the reassessment proceedings were validly initiated and the same could not be regarded as bad in law. Thus, in the facts and circumstances of the present case the issue that arises for consideration is whether the Principal Commissioner of Income Tax or the Principal Chief Commissioner of Income Tax was the Specified Authority for seeking approval for passing order under

Section 148A(d) of the Act and issuance of notice under Section 148 of the Act (new regime) for the Assessment Year 2017-2018 after the expiry of three years from the end of the relevant assessment year.

6. In this regard we deem it appropriate to refer to judgment of the Hon'ble Supreme Court in the case **Union of India vs. Rajeev Bansal [2024] 469 ITR 46** (SC)[03/10/2024]. The Hon'ble Supreme Court had, while dealing with the issue of approval from specified authority in terms of Section 151 of the Act, made the following observations:

"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 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;
  - 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 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.**" (Emphasis Supplied)*

7. On bare reading of the above extract of the judgment of Hon'ble Supreme Court in the case of Rajeev Bansal (supra), we find that the Hon'ble Supreme Court has concluded in paragraph 78 [reproduced in paragraph 6 hereinabove] that the three year time limit for Assessment Year 2017-2018 fell for completion on 31 March 2021. It fell during the time period of 20<sup>th</sup> March 2020 and 31<sup>st</sup> March 2021, contemplated under section 3(1) of TOLA. Resultantly, the Authority Specified under Section 151(i) of the Act (the new regime) could grant sanction/approval till 30<sup>th</sup> June 2021.
8. On perusal of the Order, dated 31/07/2022, 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. Since the aforesaid Order was passed after the expiry of 3 years from the end of the Assessment Year 2017-2018, as per the new regime, the authority specified under Section 151(ii) of the Act (i.e. Principal Chief Commissioner) was required to grant approval. Similarly, notice under Section 148 of the Act (new regime) has been issued on 31/07/2022, after obtaining the prior approval of the Principal Commissioner of Income Tax whereas as per Section 151(ii) approval of Principal

Chief Commissioner was required. Accordingly, we conclude that in the present case the approval has been obtained by authority specified under Section 151(i) of the Act (new regime) instead of the authority specified under Section 151(ii) of the Act (new regime). As per the judgment of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) the non-compliance with the provisions contained in Section 148A(d)/148 read with Section 151(ii) of the Act (new regime) affects the jurisdiction of the Assessing Officer. Accordingly, we hold that in absence of approval from authority specified under Section 151(ii) of the Act (new regime), the Assessing Officer lacked jurisdiction to pass Order, dated 31/07/2022, under Section 148A(d) of the Act, and to issue Notice, dated 31/07/2022, under Section 148 of the Act for the Assessment Year 2017-2018 after expiry of 3 years from the end of the aforesaid assessment year. Therefore, the aforesaid Order/Notice as well as Assessment Order, dated 23/05/2023, for the Assessment Year 2017-2018 are quashed as being bad in law. Thus, Ground No. 1 and 2 raised by the Assessee are allowed, while all the other grounds are dismissed as having been rendered infructuous.

9. In terms of the paragraph 10 above, appeal preferred by the Assessee is partly allowed.

Order pronounced on 26.02.2026.

*Sd/-*  
**(Bijayananda Pruseth)**  
**Accountant Member**

*Sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 26.02.2026  
Milan, LDC

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त/ The CIT
4. प्रधान आयकर आयुक्त/ Pr.CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT,  
Mumbai
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापितप्रति //True Copy//

उप/सहायकपंजीकार /(Dy./Asstt. Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai