

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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.6769/Mum/2025  
(Assessment year: 2017-18)

<b>Jignesh Natverlal Patel</b> <b>(Represented By Late Natverlal Nanubhai Patel)</b> 401 Adarsh Building, RTO Four Bungalows, Andheri (West), Mumbai-400053 <b>PAN:AAAPP1767B</b>	vs	<b>ITO Ward-24(3)(1), Mumbai</b> Piramal Chamber, Lalbaug, Mumbai-400012
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Aditya Ramchandran,  
Respondent by : Shri Sushil B. Shende (Sr DR)

Date of hearing : 10/02/2026  
Date of pronouncement : 05/03/2026

**ORDER**

**Per: Anikesh Banerjee (JM):**

The instant appeal of the assessee filed against the order of the NFAC, Delhi [for brevity 'the Id. CIT(A)], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2017-18, date of order 21.08.2025. The impugned order emanated from the order of the Id. Assessment

Unit Income Tax Department (for brevity the 'Ld. AO') order passed under section 147r.w.s. 144B of the Act date of order 23.05.2023.

2. The assessee has taken the following grounds:

*"1. On the facts and circumstances of the case and in law, the notice issued by the learned assessing officer under Section 148 on 24-7-2022 is invalid and bad in law in view of the fact that it was issued after the expiry of the time period as extended by the provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 after excluding the period referred to in third proviso to Section 149 as explained by the Supreme Court in the case of UOI v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC). As a result, the said notice as well as the entire assessment proceeding ought to have been declared as null and void.*

*2. On the facts and circumstances of the case and in law, the learned Assessing Officer has erred in issuing the order under Section 148A(d) and the notice under Section 148 after obtaining the approval of the approval of PCIT-20, Mumbai which was not the correct 'specified authority' as per Section 151 who should have approved it when three years have already elapsed from the end of the relevant assessment year.*

*3. On the facts and circumstances of the case and in law, the ITO, Ward 24(3)(1), Mumbai has erred in passing the order u/s. 148A(d) and also issuing the notice u/s. 148 without appreciating that he was not having the jurisdiction for the same in view of Section 151A and the notification issued thereunder notifying e-Assessment of Income Escaping Assessment Scheme, 2022 and, thereby, rendering the said order and the notice as well as the entire assessment proceeding as null and void.*

*4. On the facts and circumstances of the case and in law, the learned Assessing Officer has erred in issuing a notice u/s 148 dated 24/07/2022 without complying with the requirements of Circular No. 19 of 2019 dated 14th August, 2019 issued by the CBDT.*

*5. On the facts and circumstances of the case and in law, the CIT(A) has erred in confirming the addition of the long-term capital gains amounting to Rs.3974967/-."*

3. The brief facts of the case are that the assessee filed the return u/sec. 139(1) of the Act. The notice u/sec. 148 of the Act was issued to assessee on

30.06.2021 and after the substitute of Financial year 2021 and construed or treated to be the said notice as 148A in terms of section 148A(b) of the Act by considering the order of the Hon'ble Supreme Court in **UOI vs Ashish Agarwal, [2022] 138 taxmann.com 64 (SC)**. Finally the reassessment was completed with addition of the long-term capital gains amounting to Rs.39,74,967/-. The aggrieved assessee filed an appeal before the Ld. CIT(A). The assessee challenged both the legal and on merit before the Ld. CIT(A). The Ld. CIT(A) passed the order and rejected the grounds of the assessee. Being aggrieved the assessee filed an appeal before us.

4. The Ld. AR contended that the notice under section 148 of the Act was issued on 30.06.2021. The Ld. AR raised a preliminary objection regarding the validity of the sanction granted under section 151 of the Act for the issuance of notice under section 148 of the Act. He drew our attention to the notice issued under section 148 of the Act dated 30.06.2021 in paragraph 3 (in **APB page-2**), wherein the approval for issuance of the said notice was accorded by the Range 24(1), Mumbai. He further invited our attention to the proceedings under section 148A(d) of the Act, initiated pursuant to the order of the Hon'ble Supreme Court dated 04.05.2022 in **UOI vs Ashish Agarwal, [2022] 138 taxmann.com 64 (SC)**, wherein paragraph-6, the Ld. AO stated that the requisite approval for passing the order under section 148A(d) and for issuance of notice under section 148 of the Act had been obtained from Principal Commissioner of Income Tax-20, Mumbai (Pr. CIT-20, Mumbai) approval dated 22.07.2022 by a reference no. PCIT-20/148 Approval/2022-23/528. The Ld. AR submitted that the sanction granted by the Pr. CIT-20, Mumbai beyond the prescribed period of three years from the end of the

relevant assessment year was contrary to law and, therefore, vitiated the entire reassessment proceedings.

5. In furtherance of his submissions, the Ld. AR placed reliance on the judgment of the Hon'ble Bombay High Court in the case of **Alag Property Construction Pvt. Ltd. v. ACIT (2025)** reported in **179 taxmann.com 578 (Bom)**, and reproduced the relevant paragraphs 11 to 14 thereof as under:

*“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(1) 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(4)*

*12. Non-compliance by Respondent No.1 with the provisions contained in Section 148A(d) read with Section 151(i) 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.”

6. Respectful reliance was also placed on the decision of the Co-ordinate Bench of the ITAT, Mumbai – I Bench, in the case of **Shabbir Taheri v. ITO, ITA No. 1574/Mum/2025**, pronounced on **15.10.2025** and the relevant observations of the Bench are reproduced below:

“6. As could be seen from the provision contained u/s. 151 of the Act reproduced above, as per clause (i), in a case where action u/s. 148 and Section 148A of the Act is initiated before expiry of three years from the end of the relevant assessment year, the specified authority who can grant sanction/approval is the Principal Commissioner or Principal Director General or Commissioner or Director of Income Tax. However, as per clause (ii), if more than three years have elapsed from the end of the relevant assessment year, the specified authority, who can grant sanction is the Principal Chief Commissioner or Principal Director General or where no Principal Chief Commissioner or Principal Director General is available then Chief Commissioner or Director General of Income Tax. It is noteworthy, akin to third and fourth provisos, which were incorporated in Section 149(1) of the Act under the new regime effective from 01.04.2021, no corresponding amendment was made to Section 151 of the Act. By virtue of Finance Act, 2023 effective from 01.04.2023, the following proviso was added to Section 151 of the Act. “Provided that the period of three years for the purposes of Clause (i) shall be computed after taking into account, the period of limitation as excluded by the third, fourth and fifth provisos or extended by the sixth proviso to sub section (1) of Section 149 of the Act.”

7. Thus, as per Section 151 of the Act as it stood prior to its amendment by Finance Act, 2023, the limitation prescribed under Clause (i) of Section 151 of the Act was prior to expiry of three years from the end of the relevant assessment year and without benefit of further extension in terms with third, fourth or fifth proviso under sub section (1) of Section 149 of the Act.

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11. Similar view was reiterated by the Coordinate Bench in case of ACIT vs. Asha P. Kedia (Supra). It is relevant to observe, though the aforesaid decisions of the Coordinate Benches were rendered at a prior point of time and were available when the appeal of Albert Joseph Rozario (Supra) vs. ITO (Supra) was taken up before another Coordinate Bench, however, either

knowingly or unknowingly, these decisions of the Coordinate Benches were not brought to the notice of the learned Bench. It appears so, because, there is no reference of these decisions in case of *Albert Joseph Rozario vs. ITO (Supra)*. Had these decisions of Coordinate Benches been brought to the notice of learned Bench deciding the case of *Albert Joseph Rozario (Supra)*, a different view might have been taken. In any case of the matter, the point of time from which the proviso to Section 151 of the Act would be applicable was considered by the Hon'ble Jurisdictional High Court in at least four judgments. Three of these judgments have already been referred to in the decision of my learned brother Accountant Member. Even in case of *Agnello Oswin Dias vs. ACIT [2014] 161 taxmann.com 16 (Bombay)*, the Hon'ble Jurisdictional High Court, while reiterating the view that after expiry of three years from the end of the relevant assessment year, the specified authority in terms of Section 151(ii) of the Act is PCCIT, has held that the proviso to Section 151 of the Act having been inserted w.e.f. 01.04.2023 shall not be applicable prior to 01.04.2023. Meaning thereby, the proviso will not have retrospective effect. These decisions of the Hon'ble Jurisdictional High Court, being directly on the issue, constitute binding precedents.

12. In any case of the matter, Sections 149 and 151 of the Act have been enacted for different purposes and operate in different situations. While Section 149 of the Act, prescribes limitation for issuance of notice u/s. 148 and 148A of the Act, Section 151 of the Act prescribes the timeline for the specified authority to grant sanction for Section 148 and 148A of the Act. At the cost of repetition, it needs to be observed that prior to insertion of proviso u/s. 151 of the Act by Finance Act, 2023 w.e.f. 01.04.2023, the specified authority who can grant sanction for initiating proceedings u/s. 148A and issuing notice u/s. 148 of the Act after expiry of three years from the end of the assessment year is PCCIT/CCIT in terms with Section 151(ii) of the Act. Hence, in absence of any enabling provision u/s. 151 of the Act, the 3rd, 4th and 5th or 6th provisos of Section 149(1) of the Act cannot be read into Section 151 of the Act to extend the time limit u/s. 151(i) of the Act.

13. In view of aforesaid, I fully agree with the decision of my learned brother Accountant Member that, both the order passed u/s. 148A(d) of the Act and notice issued u/s. 148 of the Act are invalid due to lack of sanction by the specified authority as specified u/s. 151(ii) of the Act.

*As a natural corollary, the assessment order passed in consequence thereof is also invalid. Hence, the ground is allowed.”*

7. The Ld. DR argued and relied on the order of the revenue authorities.

8. We have carefully considered the rival submissions and perused the material available on record. The Ld. AR has raised a preliminary legal objection challenging the validity of the sanction granted under section 151 of the Act for issuance of notice under section 148 of the Act. On examination of the notice dated 30.06.2021 and the subsequent order passed under section 148A(d) of the Act, it is evident that the approval for initiation of reassessment proceedings beyond three years from the end of the relevant assessment year was granted by the Ld. Principal Commissioner of Income Tax-20, Mumbai. The legal position with regard to the competent authority for granting sanction under section 151 of the Act, prior to its amendment by the Finance Act, 2023, is now well settled. The Hon'ble Bombay High Court in **Alag Property Construction Pvt. Ltd.** (supra) has categorically held that where the period of three years from the end of the relevant assessment year has expired, sanction under section 151(i) could not have been accorded by the Principal Commissioner, and such sanction renders the reassessment proceedings void ab initio. The said judgment, being rendered by the Jurisdictional High Court, is binding on us. We further find that the Co-ordinate Bench of the ITAT, Mumbai, in **Shabbir Taheri** (supra), after an exhaustive analysis of sections 149 and 151 of the Act, has reiterated that prior to 01.04.2023, sanction for issuance of notice under section 148 after expiry of three years could be granted only by the authority specified under section 151(ii) of the

Act, namely the Principal Chief Commissioner or Chief Commissioner, and that the proviso inserted by the Finance Act, 2023 has no retrospective application. In the present case, it is undisputed that the sanction for issuance of notice under section 148 and for passing the order under section 148A(d) of the Act was granted by the Pr. CIT-20, Mumbai, who was not the competent authority prescribed under section 151(ii) of the Act. Consequently, the assumption of jurisdiction by the Assessing Officer is bad in law and vitiates the entire reassessment proceedings.

In view of the binding judicial precedents and the settled legal position, we hold that the notice issued under section 148 of the Act, the order passed under section 148A(d) of the Act, and all proceedings consequential thereto are invalid and unsustainable in law. Accordingly, the reassessment proceedings are hereby quashed.

9. As the reassessment itself is held to be invalid on legal grounds, the issues raised on merits do not survive for adjudication.

10. In the result, the appeal of the assessee bearing **ITA No.6797/Mum/2025** is allowed.

Order pronounced in the open court on 05<sup>th</sup> day of March 2026.

Sd/-

(GIRISH AGRAWAL)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 05/03/2026

SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI