

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI**

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

**ITA No.9047/MUM/2025
(Assessment Year: 2017-2018)**

Kalpna Sanjay Pawar

198/2262 C.G.S. Colony, Sector VI,
Antop Hill, Mumbai - 400037 Maharashtra
[PAN:AXBPP4782A]

..... **Appellant**

Vs

**Income Tax Officer Ward 41(1)(2)
Mumbai**

Room No.803A, Kautilya Bhavan,
Bandra Kurla Complex, Bandra East
Mumbai – 400051, Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Aditya Ramachandran
For the Respondent/Department : Ms. Deepika Arora

Date

Conclusion of hearing : 05.03.2026
Pronouncement of order : 09.03.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal has been preferred by the Assessee against the Order, dated 31/10/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the '**CIT(A)**'], whereby the Learned CIT(A) had dismissed the appeal against the Assessment Order, dated 24/05/2023, passed under Section 147 read with Section 144B 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**' effective till 31/03/2021) was issued to the Assessee for the Assessment Year 2017-2018 on

30/06/2021. 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 (*Old Regime*) was treated as the show-cause notice issued in terms of Section 148A(b) of the Act ('**New Regime**' introduced by the Finance Act, 2021 w.e.f. 01/04/2021). Thereafter, The Assessing Officer passed Order under Section 148A(d) of the Act and issued notice under Section 148 of the Act (New Regime) in July, 2022 after obtaining approval/sanction from the Principal Commissioner of Income Tax-1, Mumbai. The reassessment proceedings culminated into passing of the Assessment Order, dated 24/05/2023, under Section 147 read with Section 144B of the Act. The appeal preferred by the Assessee against the aforesaid Assessment Order was dismissed by the CIT(A) vide Order, dated 31/10/2025. 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:

- "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-1, 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 1(2)(3), 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 there under 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."

3. We have heard both the sides and have perused the material on record in relation to Ground No.2 and 3 above and have 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 Order under Section 148A(d) of the Act (New Regime) was passed and Notice under Section 148 of the Act (New Regime) was issued after 30th June, 2021 with prior approval of the Principal Commission of Income Tax-1, Mumbai.
5. The case of the Assessee is that Order under Section 148A(d) of the Act (New Regime) was passed in July, 2022. Similarly, the Notice under Section 148 of the Act (New Regime) was issued in July, 2022. Thus, when the aforesaid Order was passed and Notice was issued the period of 3 years from the end of the Assessment Year 2017-2018 has expired on 31/03/2021. Even the extended period granted by TOLA¹ till 30th June, 2021 has expired. Therefore, the Assessing Officer was required to obtain approval of the higher authority (i.e. the Principal Chief Commissioner of Income Tax) under Section 151(ii) of the Act before passing the Order under Section 148A(d) of the Act (New Regime) and before issuing Notice under Section 148 of the Act (New Regime). The stand taken by the Revenue is that the reassessment proceedings were validly initiated and the same could not be regarded as bad in law. It was contended on behalf of the Revenue that the notice originally issued under Section 148 of the Act (Old Regime) on 30/06/2021 after obtaining approval from the appropriate authority specified under Section

¹ Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020

151(i) of the Act. Therefore, the subsequent approvals under the New Regime were also taken from the same appropriate authority specified under Section 151(i) of the Act. Thus, there was no infirmity in the approval taken by the Assessing Officer.

6. Thus, the issue that arises for consideration in the present appeal is that in case where Order under Section 148A(d) of the Act (New Regime) has been passed and/or notice under Section 148 of the Act (New Regime) has been issued for the Assessment Year 2017-2018 after 30th June, 2021, whether the Principal Commissioner of Income Tax under Section 151(i) of the Act or the Principal Chief Commissioner of Income Tax under Section 151(ii) of the Act is the Specified Authority for seeking necessary approval.

7. In our view, the above issue is no longer res-integra and stands settled by the judgment of the Hon'ble Supreme Court in the case **Union of India vs. Rajeev Bansal [2024] 469 ITR 46 (SC)[03/10/2024]**. In the aforesaid case, 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)

8. 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 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 20th March 2020 and 31st March 2021, contemplated under Section 3(1) of TOLA. Resultantly, the Authority Specified under Section 151(i) of the Act (New Regime) could grant sanction/approval till 30th June 2021 and not thereafter.

9. In the present case Order under Section 148A(d) of the Act (New Regime) was passed and Notice under Section 148 of the Act (New Regime) was issued after 30th June, 2021 with approval/sanction from the Principal Commissioner of Income Tax. Therefore, as per the judgment of Hon'ble Supreme Court in the case of Rajiv Bansal (Supra) the authority specified under Section 151(ii) of the Act (i.e. the Principal Chief Commissioner of Income Tax) was required to grant approval for the same. In paragraph 76 of the said judgment, it was held by the Hon'ble Supreme Court that 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. Therefore, 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 under Section 148A(d) of the Act (New Regime), and to issue Notice under Section 148 of the Act (New Regime) for the Assessment Year 2017-2018. Therefore, the aforesaid Order/Notice as well as Assessment Order, dated 24/05/2023, for the Assessment Year 2017-2018 are quashed as being bad in

law. Thus, Ground No. 2 and 3 raised by the Assessee are allowed, while all the other grounds are dismissed as having been rendered infructuous.

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

Order pronounced on 09.03.2026.

Sd/-
(Bijayananda Pruseth)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 09.03.2026
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