

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "F" BENCH, MUMBAI  
BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA No. 7537/MUM/2025(AY: 2017-18)**

Jet Speed Realtors, 111 small Scale Indl. Prem Dev Soc. Ltd., 7 Udyog Nagar S, V Road, Goregaon-400104.	<b>vs.</b>	ITO 31(2)(1), Mumbai, Kautilya Bhavan, C- 41 to C-43, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051.
<b>PAN/GIR No: AAGFJ0291C</b>		
(Appellant)		(Respondent)
<b>Appellant by</b>	Shri Ashok Kumar Suthar	
<b>Respondent by</b>	Ms. Kavita Kaushik (SR DR)	
<b>Date of Hearing</b>	29.01.2026	
<b>Date of Pronouncement</b>	09.03.2026	

**ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre [in short, 'CIT(A)'], Delhi,, dated 29.09.2025 for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the assessee are as under:

***1.0. On validity of the Assessment u/s 147 of the Act***

*1.1 In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi [The CIT (A) for short] erred in rejecting the appeal filed by the Appellant.*

*1.2. The Ld CIT (A) erred in not treating the order passed u/s 147 rws 148 of the Income tax Act, 1961 (the Act) as invalid, bad in law and void ab initio.*

*1.3 The Ld. CIT (A) erred in not treating the notice issued u/s 148A(b) dated 24.05.2022 and order Passed u/s 148A(d) dated 25.05 2023 as without jurisdiction, invalid, bad in law and as the*

*instruction of the Hon'ble Supreme Court in case Ashish Agarwal and others (2022) 444 ITR 1 (SC) are not followed.*

*1.4 The Ld. CIT (A) erred in not treating the notice issued u/s 148A(b) and order passed u/s 148A(d) of the Act is bad in law as the Appellant was not provided any evidence or documents or statement in the records of the Assessing Officer [The Ld AOT on which the original notice u/s. 148 dated 29.07 2022 was issued*

*1.5. The Ld. CIT (A) erred in not upholding the reasons recorded for opening of assessment amount to reason to suspect and do not amount to reason to believe and the said reason do not constitute belief.*

*1.6 The Ld. CIT (A) erred in not treating the Notice u/s 148 and pursuant Assessment order passed u/s. 147 rws. 1448 of the Act as invalid and void ab initio as the reason recorded for re-opening the assessment is borrowed satisfaction and not proper satisfaction which is to be made by the Ld. AD before issue of Notice u/s-148.*

*1.7 The Ld. CIT (A) erred in not considering the facts that the notice u/s 148 dated 29.07 2022 was issued with DIN and again an intimation letter dated 29.07.2022 was issued for notice under section 148 dated 29.07.2022 mentioning a different DIN which makes the notice us 148 of the Act as invalid with double DIN*

**2.0. ALLEGED ADDITION MADE FOR DIFFERENCE BETWEEN THE STAMP DUTY VALUE AND THE AMOUNT AS PER THE SALE AGREEMENT PURSUANT TO DEVELOPMENT AGREEMENT:**

*21 On the facts and circumstances of the case and in law, and in law the Ld. CIT(A) erred in confirming the action of the Ld. AO in making addition of Rs.22.86,640, alleging the difference between the stamp duty value and the amount as per the sale agreement without considering the facts that the amount of Rs.22.86,640/- was not a sale, but only reimbursement of cost of construction paid to the Land owner as part of re-development Cost.*

*2.2 Without prejudice to the above, on the facts and circumstances of the case and in law, and in law the Ld. CIT(A) erred in confirming the action of the Ld. AO in making addition of Rs 22,86,640 alleging the difference between the stamp duty value and the amount as per the sale agreement without considering the facts the society members of the Resident Association/Cooperative Housing Society conveyed the land vide Conveyance deed dated*

26.05.2010 with the Land Owner with a condition that whenever in future redevelopment of the Society Building is done, the re-developer of the society had to allot one flat to the Land Owner and the same was nothing but allotment of the flat to the erstwhile Land Owner alike a Member of Society as being the part of re-development Cost of the Appellant, as the Appellant was later appointed in 2016 (27) for re-development of the society.

2.3. Without prejudice to the above, on the facts and circumstances of the case and in law, and in law the Ld. CIT(A) erred in confirming the action of the Ld. AO making addition of Rs.22,86,640 alleging the difference between the stamp duty value and the amount as per the sale agreement without considering the facts the sale was an obligation as per the registered agreement between the members of Resident Association/ Cooperative Housing Society and Land Owner, wherein the Appellant was not a party to the agreement and the provision of section 43CA of the Act is not Applicable

### **3.0. ADDITION OF RS 30,00,000 u/s 68 IN RESPECT OF LOAN RE-PAID**

3.1 Without prejudice to the above, on the facts and circumstances of the case and in law the Ld CIT(A) erred in confirming the action of the Ld. AO making addition of Rs 30,00,000 in respect of loan re-paid and treating the same as Cash Credit u/s 08 rws 11580E without considering the facts that the Appellant had taken the loan in earlier AY 2016-17.

3.2. Without prejudice to the above, on the facts and circumstances of the case and in law the Ld. CIT(A) erred in confirming the action of the Ld. AO making addition of Rs. 30,00,000 in respect of loan re-paid and treating the same as Cash Credit u/s.68 rws 11588E without considering the facts the same was neither mentioned in the reason for opening the assessment nor in notice issued u/s 148A(b) and order passed u/s 148(d) of the Act.

3.3. Without prejudice to the above, on the facts and circumstances of the case and in law the Ld. CIT(A) erred in confirming the action of the Ld. AO making addition of Rs 30,00,000 in respect of loan re-paid and treating the same as Cash Credit u/s.68 rws 1158BE without considering the facts that during

*the year the Appellant had re-paid the old loan and not taken loan during the year*

*3.4 Without prejudice to the above on the facts and circumstances of the case and in law the Ld. CIT(A) erred in confirming the action of the Ld. AO making addition of Rs. 30,00,000 in respect of loan re-paid and treating the same as Cash Credit u/s 68 rws 115BBE without providing any direct statement recorded against the Appellant by the alleged person in whose statement the Ld AO relied upon which the Appellant could not have opportunity to cross-examine as the said statement was was alleged to be relied upon to form the basis for taking an adverse view overlooking the direct documentary evidence and details filed during the course of scrutiny assessment and assessment in pursuant to notice u/s 148.*

*3.5 Without prejudice to the above, on the facts and circumstances of the case and in law the Ld. CIT(A) erred in confirming the action of the Ld AO in making addition of Rs Rs. 30,00,000 in respect of loan re-paid and treating the same as Cash Credit u/s 68 rws 115BBE of the Act without considering the facts that there is no evidence brought out by the Ld AO of any unaccounted money from the Appellant or that third party received or utilized the unaccounted money received from the Appellant with reference the loan received.*

*4.0. The Appellant craves leave to add amend alter delete or modify any or all the above grounds of Appeal.*

2.1 The appellant has raised the following additional grounds of appeal:

*(a) While passing the order u/s 250 of the Income tax Act, 1961 (the Act') ('the said order) the National Faceless Appeal Centre (NFAC) ["the Ld. CIT(A)"] failed to appreciate that the re-assessment proceedings for AY 2017-18 initiated by issue of Notice u/s 148 dated 29.07.2022 are barred by limitation and therefore void.*

*(b) While passing the said order, the Ld. CIT(A) failed to appreciate that the impugned Notice u/s 148 dated 29.07 2022 is void and bad in law since the same is issued /passed in violation of section 151 (ii) of the Act as approval was obtained from Pr. Commissioner of Income tax instead of Pr. Chief Commissioner of Income tax Act as empowered in section 151(ii) of the Act.*

*(c) The appellant craves leave to add, alter, modify, delete or substitute any or all of the grounds at the time of hearing the appeal.”*

3. Let us first consider the request of the assessee to admit the additional ground raised by it. The grounds are legal and jurisdictional in nature. The Hon’ble Supreme court in case of NTPC Ltd. vs. CIT, 229 ITR 383 (SC) has held that the order of Tribunal u/s 254 of the Act is expressed in the widest possible terms. There is no reason to restrict the power of the Tribunal u/s 254 only to decide the grounds which arise from the order of the CIT (Appeals). Both the assessee as well as the Department have a right to file an appeal/cross objection before the Tribunal. There is no reason why the Tribunal should be prevented from considering a question of law arising in the assessment proceedings although not raised earlier. Undoubtedly the Tribunal will have the discretion to allow or not to allow a new ground to be raised. But where the Tribunal is only required to consider the question of law arising from the facts which are on record in the assessment proceedings, there is no reason why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of the assessee. In the instant case, the additional ground emanates from the facts on record and no additional facts are needed to decide the issue. Hence, following the decision of the Hon’ble Supreme Court in case of NTPC Ltd. (supra), the additional grounds are admitted and will be decided at the relevant place in this order.

4. Facts of the case in brief are that assessee filed his return of income for AY 2017-18 on 04.11.2017 declaring total income of Rs. Nil. Subsequently, the case was reopened u/s 147 and notice u/s 148 of the Act was issued on 22.04.2021. Following the decision of Hon'ble Supreme Court in case of UOI vs. Ashish Agarwal, 444 ITR 1 (SC) and CBDT Instruction No.01/2022 dated 11.05.2022, the said notice was treated as show cause notice u/s 148 A(b) of the Act. Subsequently, order u/s 148A(d) was passed on 29.07.2022 and notice u/s 148 of the Act was issued on 29.07.2022. The order u/s 147 r.w.s. 144B of the Act was passed on 25.05.2023 by making additions of Rs.52,86,640/-. Aggrieved by the order of the AO, the assessee filed appeal before the CIT(A) who dismissed the appeal of the assessee vide order u/s 250 of the Act dated 29.09.2025.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The Ld. AR of the appellant has submitted that the notice u/s 148 of the Act dated 29.07.2022 is invalid and needs to be quashed as the case was opened after 3 years and the approval for notice u/s 148 was granted by the Principal Commissioner of Income-tax (PCIT) and not the Principal Chief Commissioner of Income-tax (Pr. CCIT). The Ld. AR submitted that the jurisdictional ITAT, following the decision of Hon'ble Supreme Court in case of UOI vs. Rajeev Bansal, 469 ITR 46 (SC), has held in a number of cases that where the notice was issued with the

approval of the PCIT and not of the Pr. CCIT, such notice is bad in law and is required to be quashed.

5.1 On the other hand, the Ld. Sr. DR of the revenue has relied on the orders of lower authorities and submitted that there is no irregularity in issue of the notice u/s 148 of the Act.

5.2 We have heard both parties and perused the materials on record. We have also deliberated on the decisions relied upon by the Ld. AR. There is no dispute that the notice u/s 148 of the Act for AY 2017-18 was issued on 29.07.2022 after obtaining approval of the Principal Commissioner of Income Tax -17, Mumbai (PCIT) on 29.07.2022. The issue for consideration is whether the PCIT was the specified authority u/s 151(ii) of the Act for according necessary approval. The issue is no longer *res-integra* and is settled by the decision of the Hon'ble Supreme Court in case of Rajeev Bansal (supra). The Hon'ble Supreme Court has concluded in paragraph 78 of the above decision that the three years' time limit for AY 2017-2018 fell for completion on 31.03.2021. It fell during the time period of 20.03.2020 and 31.03.2021, contemplated u/s 3(1) of TOLA. Resultantly, the authority specified u/s 151(i) of the Act (New Regime) could grant sanction/approval till 30.06.2021 and not thereafter.

6. In the instant case, order u/s 148A(d) of the Act was passed and notice u/s 148 of the Act (new regime) was issued after 30.06.2021 with approval from the Principal Commissioner of Income-tax. As per the decision of Hon'ble Supreme Court in the case of Rajiv Bansal (supra), the authority specified u/s 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 AO. Therefore, we hold that in absence of approval from authority specified u/s 151(ii) of the Act (new regime), the AO lacked jurisdiction to pass order u/s 148A(d) of the Act, and to issue notice u/s 148 of the Act (new regime) for the AY 2017-2018. Resultantly, the aforesaid order/notice as well as assessment order, dated 25.03.2023, for the AY 2017-2018 are quashed as being bad in law. The additional ground raised by the assessee are, accordingly, allowed while all the other grounds are dismissed as infructuous.

7. In the result, appeal preferred by the assessee is partly allowed.

Order is pronounced on 09.03.2026.

**Sd/-**  
**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

\*Aniket Chand; Sr. PS

MUMBAI

Date: 09.03.2026

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order  
Assistant Registrar  
ITAT, MUMBAI