

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'E' NEW DELHI
BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
ITA No. 876/Del/2025 (A.Y 2018-19)**

Assistant Commissioner of Income Tax, Circle- 25(1) Room No. 192A, 1 st floor, C. R. Building, I P Estate, Delhi (APPELLANT)	Vs	Vidya Metal Manufacturing Company, D-13, S. M. A Col-OP Industrial Estate Limited, Rajastahan Udyog, GT Karnal Road, Delhi PAN: AAACV0832G (RESPONDENT)
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C.O. No. 280/Del/2025 (A.Y 2018-19)

Vidya Metal Manufacturing Company, D-13, S. M. A Col-OP Industrial Estate Limited, Rajastahan Udyog, GT Karnal Road, Delhi PAN: AAACV0832G (APPELLANT)	Vs	Assistant Commissioner of Income Tax, Circle- 25(1) Room No. 192A, 1 st floor, C. R. Building, I P Estate, Delhi (RESPONDENT)
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Appellant by	Sh. C. S. Anand Adv, Ms. Vanshika Yadav, Adv and Ms. Aastha Sharma, Adv
Respondent by	Ms. Ankush Kalra, Sr. DR

Date of Hearing	26.02.2026
Date of Pronouncement	15.04.2026

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Revenue and Cross Objection is filed by Assessee against the order of Ld. Commissioner of Income Tax (Appeals/ National Faceless Appeal Centre ('Ld. CIT(A)/NFAC' for short), New Delhi dated 18/12/2024 for the Assessment Year 2018-19.

2. Brief facts of the case are that, the Assessee is a Private Limited Company and the return was filed declaring total income of Rs. 1,19,74,950/-. The case of the Assessee was reopened under Section 147 of the Act on the basis of information received that the Assessee had made bogus sale or purchase of Rs. 85,85,625/- from M/s RCI Industries and Technologies Ltd. An assessment order came to be passed under Section 147 r.w. Section 144B of the Act on 29/05/2023 by making an addition of Rs. 85,85,625/- on account of bogus sale/purchase under Section 68 of the Act. Aggrieved by the assessment order dated 29/05/2023, Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 18/12/2024 allowed the Appeal of the Assessee. As against the order of the Ld. CIT(A), Revenue preferred the above Appeal and Assessee has also challenged the order impugned by filing Cross Objection.

3. The Ld. Counsel for the Assessee addressing on Ground No. 3 of the Cross Objection, contended that notice dated 07/04/2022 issued under Section 148 of the Act is liable to be quashed as the prior approval was not granted by PCCIT or PDGIT instead of PCIT, Delhi-7 has granted the approval. Thus, sought for allowing the Appeal.

4. Per contra, the Ld. DR relying on the orders of the Lower authorities, sought for dismissal of the appeal.

5. We have heard the parties perused the material available on record. As could be seen from the notice issued under Section 148 of the Act dated 07/04/2022, the A.O. issued the said notice after obtaining the prior approval of PCIT, Delhi-7 accorded on 07/04/2022. Admittedly, the appropriate authority who could sanction the said notice issued beyond 3 years, should have been the Principal Chief Commissioner or the Principal Director General or the Chief Commissioner or the Director General. In the present case, as stated above the said notice has been approved by the Principal Commissioner of Income Tax, Delhi 7, which does not satisfy the condition prescribed under Section 151(ii)(b) of the Act. The Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal reported in [2024] 469 ITR 46, held as under:-

“iii. Sanction of the specified authority

73. Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under section 148. The purpose behind this procedural check is to save the assesseees from harassment resulting from the mechanical reopening of assessments Sri krishna (P.) Ltd. v. ITO [1996] 87 Taxman 315/221 ITR 538 (SC)/[1996] 9 SCC 534. A table representing the prescription under the old and new regime is set out below:

<i>Regime</i>	<i>Time Limits</i>	<i>Specified Authority</i>
<i>Section 151(2) of the old regime</i>	<i>Before expiry of four years from the end of the relevant assessment year</i>	<i>Joint Commissioner</i>
<i>Section 151(1) of the old regime</i>	<i>After expiry of four years from the end of the relevant assessment year</i>	<i>Principal Commissioner or Chief Commissioner or Principal Commissioner or</i>

		<i>Commissioner</i>
<i>Section 151(i) of the new regime</i>	<i>Three years or less than three years from the end of the relevant assessment year</i>	<i>Principal Commissioner or Principal Director or Commissioner or Director</i>
<i>Section 151(ii) of the new regime</i>	<i>More than three years have elapsed from the end of the relevant assessment year</i>	<i>Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General</i>

74. The above table indicates that the specified authority is directly correlated 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, noncompliance 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 20th March 2020 to 31st 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 20th March 2020 and 31st March 2021, then the specified authority under section 151(i) has an extended time till 30th 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 20th March 2020 and 31st March 2021, then the specified authority under section 151(2) has time till 31st March 2021 to grant approval. The time limit for Section 151 of the old regime expires on 31st March 2021 because the new regime comes into effect on 1st April 2021.

78. For example, the three year time limit for assessment year 2017- 2018 falls for completion on 31st March 2021. It falls 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 new regime can grant sanction till 30th 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 UP [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.”

6. In view of the above, we are of the opinion that non-compliance of provision of Section 151 of the Act renders notice issued under Section 148 of the Act dated 07/04/2022 is bad in law. Accordingly, the notice issued under Section 148 of the Act and consequential framing of assessment order are hereby quashed. Accordingly, the Ground No. 3 of the Cross Objection No. 280/Del/2025 filed by the Assessee is allowed.

7. Since we have allowed the Ground No. 3 of the Cross Objection filed by the Assessee, the Appeal filed by the Revenue becomes infructuous, accordingly, Appeal of the Revenue in ITA No. 876/Del/2025 is dismissed.

Order pronounced in the Open Court on this 15th Day of April, 2026

Sd/-

(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Dated: 15/04/2026

R. Naheed *

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

