

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH MUMBAI**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 205/Mum/2026
(Assessment Year: 2019-20)**

Darbari Industries 110, Champaklal Udyog Bhavan, Sion Koliwada Road, Sion (West), Mumbai – 400 022.	Vs.	ACIT - 41(1)(1) 8 th Floor, Kautilya Bhavan, C-41-43, Avenue 3, Near Videsh Bhavan, G-Block, BKC, Bandra Kurla Complex, Bandra East, Mumbai- 400 051
PAN/GIR No. AAAFD3277E		
(Applicant)		(Respondent)

Assessee by	Shri Bhupendra Shah, Ld. AR
Revenue by	Shri Annavaram Kosuri, Ld. DR

Date of Hearing	16.04.2026
Date of Pronouncement	21.04.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 14.11.2025 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [hereinafter referred to as "CIT(A)"] under section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"], for the

Assessment Year 2019–20, arising out of the assessment order dated 28.01.2025 passed by the Assessing Officer under section 147 read with section 144B of the Act.

Facts of the Case

2. The assessee is a partnership firm engaged in the business of manufacturing steel wires and allied products. The assessee filed its return of income under section 139(1) on 07.03.2020 declaring total income at Rs. 22,02,720/-. The return was processed by CPC. Subsequently, based on information received through the Risk Management Strategy under the Insight Portal indicating that the assessee was a beneficiary of accommodation entry transactions, the Assessing Officer initiated proceedings under section 148A. It was alleged that the assessee had availed unsecured loans of Rs. 1,80,00,000/- from Consultshah Financial Services Private Limited and Rs. 20,00,000/- from India Infotech and Software Limited, which were treated as accommodation entries. After issuance of notice under section 148A(b) and passing of order under section 148A(d), notice under section 148 was issued on 27.04.2023. In response, the assessee filed return of income on 27.06.2023 declaring the same income of Rs. 22,02,720/-.

3. During the course of reassessment proceedings conducted under the faceless regime, notices under section 142(1) were issued calling for details of unsecured loans and related evidences. The assessee furnished documentary evidences including confirmations, bank statements, financial statements,

PAN details and income tax returns of the lenders to substantiate the genuineness of the transactions. The assessee also requested cross-examination of the persons whose statements were relied upon and sought opportunity of hearing through video conferencing. The assessee submitted that the unsecured loans were genuine transactions carried out through banking channels and supported by documentary evidences such as loan confirmations, audited financial statements, bank statements and tax returns of the lenders. It was contended that the lenders were duly identifiable and creditworthy and that interest payments were duly subjected to TDS and offered to tax by the recipients. The assessee further contended that the reopening was based merely on information from the Insight Portal without independent application of mind by the Assessing Officer. It was also contended that reliance on statements recorded during search proceedings without granting cross-examination violated principles of natural justice.

4. The Assessing Officer, however, was not convinced with the explanation of the assessee. Relying upon the information received from investigation wing and statements recorded during search proceedings, it was held that the entities from whom loans were obtained were engaged in providing accommodation entries and that the transactions lacked genuineness. It was observed that mere routing of funds through banking channels does not establish the genuineness of transactions. Accordingly, the Assessing Officer treated the unsecured loans of Rs.

2,00,00,000/- as unexplained cash credits under section 68 read with section 115BBE. Further, interest expenditure of Rs. 18,51,451/- claimed on such loans was disallowed. The total income of the assessee was assessed at Rs. 2,40,54,171/-. Penalty proceedings under section 270A were also initiated.

5. Aggrieved, the assessee preferred appeal before the learned CIT(A). In the statement of facts, the assessee reiterated that it had furnished all necessary evidences to establish the genuineness of loans and had also sought cross-examination of persons whose statements were relied upon. It was further contended that the reassessment proceedings were invalid in law, inter alia, on account of lack of jurisdiction and violation of statutory provisions governing faceless assessment. However, the learned CIT(A) recorded that despite being provided multiple opportunities, the assessee did not file any submissions during the appellate proceedings. The order records that notices were issued on several dates and either adjournments were sought or there was no compliance. In the absence of any submissions from the assessee, the learned CIT(A) proceeded to decide the appeal on the basis of material available on record. Relying upon the assessment order and observing that no evidence was brought on record to rebut the findings of the Assessing Officer, the learned CIT(A) upheld the additions made. It was observed that the assessee had not effectively pursued the appeal. Accordingly, all grounds raised by the assessee were dismissed and the appeal was rejected.

6. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. *The learned CIT(A) erred in law and on facts by passing the Appellate Order without disposing of the adjournment request filed by the Assessee's Authorised Representative due to pressing statutory deadlines for income tax returns and audits. Such non-consideration of the adjournment application constitutes a violation of principles of natural justice, rendering the Appellate Order unsustainable. The matter deserves to be remanded back to the file of CIT(A) for fresh adjudication after affording a reasonable opportunity of hearing to the Assessee.*
2. *The learned CIT(A) erred in law and on facts in upholding the Assessment Order passed by the Faceless Assessing Officer (FAO), who failed to provide the Assessee and / or its Authorised Representative an opportunity to cross-examine the person(s) whose statement(s) formed the basis of the additions. This denial of cross-examination rights constitutes a violation of the principles of natural justice, rendering the assessment order legally unsustainable and liable to be quashed.*
3. *The learned CIT(A) erred in law and on facts in upholding the reassessment order passed by the Faceless Assessing Officer (FAO), who wrongly invoked jurisdiction under section 147 of the Act instead of issuing notice under section 153C, where the information forming the basis of reassessment emanated from a search action on a third party, proceedings under section 153C were mandatory, rendering the reassessment under section 147 jurisdictionally defective and legally unsustainable.*
4. *The learned CIT(A) erred in law and on facts in upholding the reassessment order passed by the Faceless Assessing Officer (FAO), where the Jurisdictional Assessing Officer (JAO) issued notice under section 148, contrary to the mandatory requirement under section 151A that such notice must be issued by the FAO. The notice under section 148 is therefore invalid ab initio, as there exists no concurrent jurisdiction between the JAO and FAO, rendering the entire reassessment proceedings void.*
5. *The learned CIT(A) erred in law and on facts in upholding the reassessment order passed by the Faceless Assessing Officer (FAO), who failed to grant the Assessee's request for a video conference hearing to explain its case in detail. Such denial constitutes a breach of the principles of natural justice under section 144B, rendering the assessment order invalid and liable to be set aside.*

6. *The learned CIT(A) erred in law and on facts in upholding the reassessment order passed by the Faceless Assessing Officer (FAO), who exceeded the jurisdictional limits of section 147 by disallowing interest on loans - a matter not forming part of the recorded reasons for reopening. Moreover, as the recorded reasons do not survive, the proceedings are invalid, contrary to the binding precedent of the jurisdictional Bombay High Court in CIT vs. Jet Airways (I) Ltd. 331 ITR 236 (Bom).*

WITHOUT PREJUDICE TO THE ABOVE GROUNDS:

7. *The learned CIT(A) erred in law and on facts in confirming the FAO's order treating the unsecured loan of Rs. 2,00,00,000 as unexplained cash credit under section 68 read with section 115BBE. No independent inquiry was conducted by the authorities into the identity, creditworthiness of the lender, or genuineness of the transaction, and the addition lacks any adverse material or evidence, warranting deletion.*
8. *The learned CIT(A) erred in law and on facts in confirming the disallowance of interest expenses of Rs. 18,51,451 solely because the underlying unsecured loans were branded as accommodation entries. Absent of any independent verification of the transaction's genuineness or adverse findings on the loans' identity / creditworthiness, the disallowance is mechanical and unsubstantiated, warranting deletion.*
9. *The learned CIT(A) erred in law and on facts in confirming the FAO's order, which erroneously reckoned the due date for filing the return of income as 30 days from the date of issuance of notice under section 148, instead of the statutorily prescribed period of three months from the end of the month in which such notice was issued, as mandated under the amended provisions of section 148 w.e.f. 01.04.2023.*
10. *The Assessee requests leave to have all the above Grounds of Appeal considered independently and without prejudice to one another. The Assessee further prays that permission be granted to add, alter, amend, delete or modify any or all of the above Grounds of Appeal at or before the hearing of the appeal.*
7. During the course of hearing before us, the learned Authorised Representative (AR) for the assessee raised an additional legal ground challenging the very assumption of jurisdiction under section 147 of the Act. It was submitted that

the approval mandated under section 151 of the Act for issuance of notice under section 148 has been granted by the Principal Commissioner of Income Tax (PCIT) and not by the Principal Chief Commissioner of Income Tax (PCCIT), though the case falls beyond the period of three years from the end of the relevant assessment year. It was contended that as per the statutory mandate contained in section 151(ii), in cases where the notice is issued beyond the prescribed period of three years, prior approval of the PCCIT is a condition precedent and approval by PCIT would not suffice. On this premise, it was argued that the notice issued under section 148 as well as the consequent reassessment order are without jurisdiction and liable to be quashed.

8. In support of the aforesaid contention, reliance was placed on the judgment of the Hon'ble Bombay High Court in the case of ***Mrs. Chitra Supekar vs. ITO reported in 149 taxmann.com 26 (Bom)***. The learned AR drew our attention to the ratio laid down therein, wherein it has been categorically held that where the order under section 148A(d) and the consequential notice under section 148 are issued beyond the period of three years from the end of the relevant assessment year, the sanction contemplated under section 151(ii) must be obtained from the PCCIT and not from the PCIT, and failure to obtain such sanction renders the entire reassessment proceedings invalid.

9. Placing reliance on the above judicial pronouncement, it was submitted that the defect in sanction goes to the root of jurisdiction and is not a curable irregularity. Therefore, according

to the assessee, the reassessment proceedings deserve to be annulled at the threshold.

10. Per contra, the learned Departmental Representative did not raise any specific objection to the admission of the additional legal ground so raised by the assessee. On merits, the learned Departmental Representative relied upon the assessment order passed under section 147 read with section 144B as well as the appellate order passed by the learned CIT(A).

11. We have carefully considered the rival submissions, perused the material available on record and gone through the statutory provisions as well as the judicial precedent relied upon. Since the additional ground raised by the assessee challenges the very assumption of jurisdiction under section 147 of the Act, the same goes to the root of the matter and is, therefore, admitted for adjudication.

12. Before advertng to the facts of the present case, it is apposite to examine the statutory scheme governing sanction for issuance of notice under section 148. Section 151, as substituted by the Finance Act, 2021, w.e.f. 01.04.2021 and Finance Act, 2023, w.e.f. 01.04.2023 provides that where notice under section 148 is issued within three years from the end of the relevant assessment year, sanction is to be obtained from the Principal Commissioner or Commissioner and where notice under section 148 is issued beyond three years from the end of the relevant assessment year, sanction is required from the Principal Chief Commissioner or Chief Commissioner or Principal Director

General or Director General. Thus, the statute draws a clear distinction based on the time elapsed from the end of the relevant assessment year, and mandates a higher level of approval in cases falling beyond three years.

13. In the present case, the relevant dates emerging from the record are as under:

Particulars	Date
Assessment Year	2019-20
End of relevant assessment year	31.03.2020
Expiry of three-year period	31.03.2023

14. Thereafter, the following steps were taken:

Particulars	Date
Notice under section 148A(b)	31.03.2023
Order under section 148A(d) and notice under section 148	27.04.2023
Assessment order under section 147 r.w.s. 144B	28.01.2025

15. From the above chronology, it is evident that though the initiation under section 148A(b) is stated to be on 31.03.2023, the crucial jurisdictional trigger, namely the order under section

148A(d) and issuance of notice under section 148, has admittedly been done on 27.04.2023, i.e., beyond the period of three years from the end of the relevant assessment year. The statutory scheme is unambiguous that it is the issuance of notice under section 148, preceded by order under section 148A(d), which determines the applicability of section 151. Therefore, once the notice under section 148 is issued after 31.03.2023, the case squarely falls within section 151(ii) and requires sanction from PCCIT.

16. The contention of the assessee is that in the present case, approval has been granted by the PCIT and not by the PCCIT, which is contrary to the mandate of section 151(ii).

17. The Revenue has not controverted this factual assertion. Even during the course of hearing, the learned Departmental Representative has not disputed that the sanction was accorded by PCIT.

18. Once it is established that the notice under section 148 has been issued beyond three years, and sanction has not been obtained from the competent authority as prescribed under section 151(ii), the inevitable consequence is that the jurisdictional requirement is not satisfied. The issue is no longer *res integra*. The Hon'ble jurisdictional High Court in *Mrs. Chitra Supekar vs. ITO (surpa)* has categorically held:

“Apropos section 151(ii) of the Act the sanction from the PCCIT ought to have been taken when order was sought to be passed beyond the

period of three years... No approval from PCCIT was taken as contemplated u/s 151(ii)... and is therefore vitiated.” (para 8 and 9)

19. The Hon'ble High Court further held that failure to obtain sanction from the correct authority renders the proceedings invalid for non-compliance with mandatory statutory provisions. The ratio laid down is directly applicable to the facts of the present case. The defect in sanction is not procedural but jurisdictional, going to the root of the matter. Such defect cannot be cured and vitiates the entire reassessment proceedings.

20. In view of the foregoing discussion, we hold that the notice under section 148 having been issued on 27.04.2023 falls beyond three years from the end of A.Y. 2019–20. Consequently, approval under section 151(ii) from PCCIT was mandatory. Approval obtained from PCIT is not in conformity with the statutory mandate. Therefore, the notice issued under section 148 and the consequent reassessment order passed under section 147 r.w.s. 144B are without jurisdiction and liable to be quashed. Accordingly, the additional legal ground raised by the assessee is allowed.

21. Since we have already quashed the reassessment proceedings on the issue of invalid sanction under section 151, the other legal grounds raised by the assessee, including validity of reopening under section 147 vis-à-vis section 153C, challenge to issuance of notice by JAO instead of FAO and violation of principles of natural justice on account of denial of cross-examination and video conferencing, are rendered academic and

do not require adjudication. Similarly, the grounds challenging addition of Rs. 2,00,00,000/- under section 68 read with section 115BBE, and disallowance of interest of Rs. 18,51,451/-, also become infructuous, in view of our decision quashing the reassessment proceedings itself.

22. In the result, the appeal of the assessee is allowed on legal ground, and the reassessment order is quashed. All other grounds are rendered academic.

Order pronounced in the open court on 21.04.2026.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 21/04/2026
Dhananjay, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai