

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA Nos. 2026 & 2027/KOL/2025
(Assessment Years: 2016-17 & 2018-19)**

**M/s Blackstone Overseas Pvt.
Ltd.**

3rd Floor, Room No.308, 5,
Surendra Mohan Ghosh Sarani,
Dalhousie, Kolkata-700001,
West Bengal

(Appellant)

ITO, Ward 5(1)

Aaykar Bhawan, P-7,
chowringhee Square, Kolkata-
700069, West Bengal

(Respondent)

PAN No. AADCB6931H

Assessee by : Shri Sunil Surana, AR
Revenue by : Shri Pradeep Dung Dung, DR

Date of hearing: 04.12.2025
Date of pronouncement: 18.12.2025

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee against the orders of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 30.07.2025 & 23.07.2025 for the AYs 2016-17 & 2018-19 respectively.

A.Y. 2018-19

ITA No. 2027/KOL/2025

2. At the time of hearing the Id. Counsel for the assessee pressed ground no.6, which is extracted as under:-

"6. For that the Id. CIT (A) erred in confirming the order of the Id. AO when reopening of assessment itself was bad in law since approval accorded u/s 151 of the Act was not in accordance with law."

2.1. The facts in brief are that the assessee filed the return of income on 30.10.2018, declaring total income of ₹29,80,021/-, which was processed u/s 143(1) of the Act. Thereafter, specific information as flagged as per Risk Management Strategy formulated by the CBDT through ITBA software under the head 'High Risk CRIU/VRU cases according to which the assessee has made some bogus purchases. The assessee was given notice u/s 148A(b) of the Act. The assessee has not filed any reply. Thereafter, the order u/s 148A(d) of the Act was passed on 07.04.2022 and notice was finally issued u/s 148 of the Act on 07.04.2022 to the assessee after obtaining the approval from the competent authority i.e. PCIT, Kolkata-2 as mentioned in Para no.3 of the notice issued u/s 148 of the Act, a copy of which is available at pageno.20 of the Paper Book. The assessee complied with the said notice by filing the return of income on 30.10.2018. Thereafter, the notice u/s 143(2) and 142(1) of the Act along with questionnaire were issued and duly served upon the assessee. Finally, the assessment was framed by the Id. AO by making an addition of ₹12,39,155/- on account of unexplained expenditure.

2.2. In the appellate proceedings, the Id. CIT (A) confirmed the order of the Id. AO.

2.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessment was reopened after a period of three years from the end of the relevant assessment year as the notice u/s 148 of the Act was issued on 07.04.2022, whereas the assessment year involved is 2018-19 and thus is beyond three years from the end of the relevant assessment year. Therefore, in term of section 151 of the Act, the approval was required to be taken from the Id. PCCIT, whereas the assessee has taken an approval from Id. PCIT-2, Kolkata. Accordingly, in our opinion, the approval has not been

granted by the competent authority as prescribed under the Act under section 151 of the Act. Therefore, the notice issued u/s 148 of the Act and consequent assessment is nullity and bad in law. The issue is covered by the decision of Hon'ble Bombay High Court in Writ Petition No.3249 of 2022 in case of Agnello Oswin Dias Vs. ACIT dated 22.02.2024, wherein it has held as under:-

"4. The impugned order and the impugned notice both dated 22 April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai-5. The matter pertains to Assessment Year ("AY") 2018-2019 and since the impugned order as well as the notice are issued on 22 April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151 (ii) of the Act. The proviso to Section 151 of the Act has been inserted only with effect from 1" April 2023 and, therefore, shall not be applicable to the matter at hand.

5. In the circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., the sanction is invalid and consequently, the impugned order and impugned notice both dated 22nd April 2022 under Sections 148A(d) and 148 of the Act are hereby quashed and set aside."

2.4. Similarly, decision of Hon'ble Bombay High Court in case of Vodafone Idea Ltd. Vs. DCIT vide WP No. 2768 of 2022 dated 06.02.2024, wherein it has followed the decision of Agnello Oswin Dias (supra), as under:-

"1. Petitioner is impugning a notice dated 19 March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order passed under Section 148A(d) of the Act and the notice both dated 7th April 2022 issued under Section 148 of the Act. One of the grounds raised is that the sanction to pass the order under Section 148A(d) of the Act and issuance of notice under Section 148 of the Act is invalid inasmuch as the sanction has been admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").

2. Petitioner's request for a copy of the sanction has also been denied. Even in the affidavit in reply, the Department is refusing to give the sanction which makes us wonder what is the national secret involved in that, that Assessee is being refused what he is rightfully entitled to receive from the Department. In the affidavit in reply, the stand taken by the Revenue is it will be made available during the re-assessment proceeding.

3. The impugned order and the impugned notice both dated 7th April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai 5. The matter pertains to Assessment Year ("AY") 2018-19 and since the impugned order as well as the notice are issued on 7th April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151

(ii) of the Act. The proviso to Section 151 has been inserted only with effect from 1 April 2023 and, therefore, shall not be applicable to the matter at hand.

4. In these circumstances, as held by this Court in *Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors.*, the sanction is invalid and consequently, the impugned order and impugned notice both dated 7th April 2022 under section 148A(d) and 148 of the Act are hereby quashed and set aside.

5. Petition disposed. No order as to costs. All rights and contentions are kept open.

6. For completion of record, Respondents are directed to make available to Petitioner copy of the approval form as well as the approval accorded for issuance of order under Section 148A(d) and Section 148 of the Act within one week from this order being uploaded."

2.5. Similarly, in the case of *Haresh kumar Dungarmal Jain Vs. DCIT* vide ITA No. 1933/PUNE/2024 vide order dated 24.02.2025 & *Davos International Fund* Vide ITA No. 1190/MUM/2024, dated 13.01.2025 the issue is decided on the same lines.

2.6. Considering the facts and circumstances of the case and also relied on the above decisions, we are inclined to quash the reopening of assessment made by the Id. AO.

2.7. The appeal of the assessee is allowed.

A.Y. 2016-17

ITA No. 2026/KOL/2025

3. The Id. Counsel for the assessee at the time of hearing pressed only ground no.6, which read as under:-

"6. For that Ld. CIT (A) erred in confirming the order of the Id. AO when notice u/s 148 issued by the AO after 03.05.2023 directing the assessee to file the return within 30 days from the service of the notice was bad in law since the mandatory period of three months was not afforded to the assessee."

3.1. The facts in brief are that the assessee filed the return of income on 15.09.2016, declaring total income of ₹32,43,430/-. The case of the assessee was selected under Risk management strategy formulated by CBDT, on the ground that the assessee has availed

bogus purchases to the tune of ₹54,94,151/- from shell company M/s Ranisati Metal Industries, M/s Ranisati Industries Ltd and TIF Castings Limited. Accordingly, notice u/s 148A(b) of the Act was issued on 30.03.2023. The Id. AR submitted before us that the second notice u/s 148A(b) of the Act dated 25.04.2023 was invalid since, the time period to comply with the notice was only 3 days as against not less than 7 days provided under the Act. Further, the notice u/s 148 of the Act dated 03.05.2023 was invalid since, the time period to comply with the notice was only 30 days as against three months period provided under the Act.

3.2. The learned AR submitted that the assessee has to be granted minimum time prescribed failing which the notice as well as the assessment framed is rendered invalid. The learned AR submitted that the case of the assessee is squarely covered by the decision of Hon'ble Karnataka High Court in the case of Panjos Builders (P.) Ltd. vs. Income-tax Officer [2024] 161 taxmann.com 573 (Karnataka)[08-01-2024] and the decision of the coordinate bench in the case of Piyush Kumar Sarda Vs. ITO in ITA No. 542/KOL/2025 vide order dated 23.07.2025 in which the above decision of the Karnataka High Court has been followed.

3.3. After hearing the rival contentions and perusing the materials available on record, we find that apparently the notices issued u/s 148A(b) of the Act and 148 of the Act are invalid as the mandatory time requires for notice is 7 days and three months for the notice issued u/s 148 of the Act respectively , was not allowed to the assessee. Therefore, these notices are invalid and consequently the assessment framed is also invalid. The case of the assessee find support from the decision of Hon'ble Karnataka High Court in case of

Panjos Builders (P.) Ltd. Vs. Income-tax Officer (*supra*) wherein it has held as under:-

"8. In the instant case, it is an undisputed fact that the Notice at Annexure - A dated 21-3-2022 is not signed either physically or digitally but the impugned notice also prescribes a period of six days, which is lesser than the minimum prescribed period of seven days as contemplated under section 148A(b) of the IT Act. Under these circumstances, in the light of the judgment of this Court in Begur's case and the judgment of the Bombay High Court in Mukesh's case supra, I am of the considered opinion that the impugned notice at Annexure - A and also consequential proceedings, orders, notices, etc., deserves to be quashed by reserving liberty in favour of the respondents to take recourse to such remedies as available in law."

3.4. Similarly, in case of Piyush Kumar Sarda Vs. ITO in ITA No. 542/KOL/2025 vide order dated 23.07.2025, wherein it has followed the decision of Hon'ble Karnataka High Court in case of Panjos Builders (P.) Ltd. Vs. Income-tax Officer (*supra*), *similar issue has been decided. The operative part of the decision held as under:-*

"4. It was the submission that the notice has been issued on 16.03.2022 and the date for response has been provided for 21.03.2022, which was less than seven days. It was the submission that the provisions of Section 148A(b) of the Act that require "being not less than seven days from the date on which such notice is issued, is to be provided to the assessee. It was the submission that as the notice does not give the assessee seven days, therefore, the notice issued u/s.148A(b) of the Act is invalid. The Id.AR placed reliance on the decision of the Hon'ble Karnataka High Court in the case of Panjos Builders Pvt. Ltd., passed in Writ Petition `No.23572 of 2023, dated 08.01.2024, wherein in paras 7 & 8 the Hon'ble High Court has held as under :-

7. So also, having regard to the minimum period of seven days prescribed under section 148A(b) of the IT Act as held by the High Court of Bombay in the case of Mukesh J. Ruparel v. ITO [2023] 153 taxmann.com 70/295 Taxman 475 [W.P.No.15268 of 2023 dated 25-7-2023], that if notice under section 148A(b) prescribes a period lesser than a period of seven days as contemplated in the said provision, the said notice would be vitiated resulting in quashment of not only the notice but also the subsequent assessment orders, penalty notices, orders, etc. In the aforesaid judgment of the Bombay High Court, it is held as under:

"Petitioner is impugning a notice dated 15th March 2023 issued under section 148A(b) of the Income-tax Act, 1961 (the Act), the order dated 31st March 2023 passed under section 148-A(d) of the Act and notice dated 31st March 2023 issued under section 148 of the Act.

2. Petitioner is an individual who did not file return of income for Assessment Year 2016-17 because his income was less than taxable limit.

3. Petitioner received a notice dated 15th March 2023 under clause 148A(b) of the Act from Respondent No. 1, stating that Respondent No. 1 has information which suggests that income chargeable to tax for Assessment Year 2016-17 has escaped assessment within the meaning of Section 147 of the Act. Petitioner was provided with information/enquiry on which reliance was placed in the form of annexure to the notice and Petitioner was called upon to show cause on or before 28th March 2023 as to why a notice under section 148 of the Act should not be issued. The information which suggested that there has been an escapement of income from assessment provided details of a property that Petitioner had purchased. Petitioner was directed to provide head-wise computation of income, details of purchase of immovable property during Financial Year 2015-16 supported with copy of registered agreement with annexure II, details of payment made and source of acquisition of said immovable property.

4. Petitioner submitted an elaborate reply on 18th March 2023 and also raised certain objections. The main objection raised was that under the provision of Section 148A(b) of the Act, the assessee should be provided an opportunity of being heard by serving upon the assessee a notice to show cause within such time as may be specified in the notice being not less than seven days but not exceeding thirty days from the date on which said notice has been issued. Since the notice dated 15th March 2023 provides only for five days when the law requires minimum seven days to be given, the notice itself was bad-in-law.

5. Along with reply, Petitioner also provided a photo copy of the notarised affidavit of Petitioner's brother affirmed on 18th March 2023, in which the brother has confirmed of giving gift of Rs. 75 lakhs to Petitioner on 26th March 2019, which is much beyond the relevant Assessment Year.

6. Respondent No. 1 has passed the impugned order dated 31st March 2023 under clause D of Section 148A of the Act. In the order, Respondent No. 1 states that from the statement issued by HDFC Bank for the period 1st April 2018 to 31st March 2019 of the brother, it is seen that there is a credit entry of Rs. 1 Crore on 19th March 2019, out of which Rs. 75 lakhs has been paid to Petitioner on 26th March 2019. Respondent No. 1 also states that the gift deed submitted by Petitioner from the brother has not been notarised.

7. Moreover, Respondent No. 1 states that income chargeable to tax has escaped assessment without mentioning what is the amount of income that has escaped assessment. Further, the approval under section 151 of the Act which is annexed to the impugned order is of one Poonam Vijay Chhabria whose PAN number is also entirely different from the PAN number of Petitioner. Respondent No.1 is totally silent about the objections raised by Petitioner of minimum seven days notice required. Mr. Gandhi states that on each of these grounds not only the impugned order dated 31st March 2023 but also the notice dated 31st March 2023 itself should be quashed and set aside.

8. No reply has been filed though Petition was served more than a month ago. We have, therefore, decided to go ahead and consider the matter and dispose it since we were, prima facie, satisfied that there was merit in Petitioner's submissions.

Section 148-A(B) of the Act reads as under:-

"provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a)."

9. The notice dated 15th March 2023 gives time only up to 20th March 2023 to show cause. We have to note that even the guidelines dated 1st August 2022 for issuing of notice under section 148 of the Act also provide that if the result of an enquiry/information available suggests that income chargeable to tax has escaped assessment, the Assessing Officer shall provide an opportunity of being heard by assessee by issuing the show cause notice under section 148A(b) of the Act and the notice shall provide between seven to thirty days time for the assessee to submit their reply. A template of the show cause notice is also annexed to the guidelines. Therefore, in view of the guidelines, we would also read that the minimum seven days required to be made as a mandatory requirement and failure to comply with would render a notice itself invalid. Therefore, on this ground alone, the notice requires to be quashed and set aside.

Perhaps, being aware of this position, Respondent No. 1 has chosen not to deal with these objections raised by Petitioner in the reply to the show cause notice.

10. We also found in the said guidelines a provision that the order under section 148A(d) of the Act shall be sent to assessee along with the approval of the specified authority for such order under section 148A(d) of the Act. In the case at hand, the approval that has been sent is of some other assessee and not Petitioner. This also indicates non-application of mind by Respondent No. 1. On this ground also, the order dated 31st March 2023 impugned in the Petition is required to be quashed and set aside.

11. Further, in the guidelines to which is annexed a template of the order to be passed under section 148A(d) of the Act provides for mentioning of amount escaped based on the information and how this amount is represented in the form of assets. It also provides that the Assessing Officer will specify the quantum of income/assets/expenditure/entry which has escaped assessment. This not stated in the order under clause D of Section 148 of the Act. On this ground also, the said order dated 31st March 2023 is required to be quashed and set aside.

12. Further, there is a factually incorrect statement made in the order that the affidavit of Petitioner's brother that was submitted was not notarised when it was factually a notarised affidavit.

13. Further, in the impugned order, it is stated that the HDFC statement/document do not substantiate the credit worthiness and genuineness of the lender of the gift, i.e., brother of Petitioner.

Mr. Gandhi states that if only Petitioner was called upon to submit, Petitioner would have submitted evidence towards credit worthiness of the brother because in the show cause notice issued, Petitioner was only directed to call upon to disclose the source from which he got money to pay for the flat.

In over view, therefore,, on this ground also, the impugned order dated 31st March 2023 is required to be quashed and set aside.

14. Accordingly, we hereby quash and set aside the notice dated 15th March 2023 issued under clause (b) of Section 148-A of the Act, the impugned order dated 31st March 2023 issued under clause (d) of Section 148A of the Act and consequent notice dated 31st March 2023 issued under section 148 of the Act.

15. Petition disposed. There shall be no order as to costs.

8. *In the instant case, it is an undisputed fact that the Notice at Annexure - A dated 21-3-2022 **is** not signed either physically or digitally but the impugned notice also prescribes a period of six days, which is lesser than the minimum prescribed period of seven days as contemplated under section 148A(b) of the IT Act. Under these circumstances, in the light of the judgment of this Court in Begur's case and the judgment of the Bombay High Court in Mukesh's case supra, I am of the considered opinion that the impugned notice at Annexure - A and also consequential proceedings, orders, notices, etc., deserves to be quashed by reserving liberty in favour of the respondents to take recourse to such remedies as available in law.*

5. It was the submission that the notice issued u/s.148A(b) of the Act being invalid, the assessment order is liable to be annulled.

6. In reply, Id. Sr. DR drew my attention to page 2 of the paper book which is the Annexure to the notice u/s.148A(b) of the Act, wherein it is mentioned that the assessee is requested to furnish written submission with all supporting documents within 07 days from the date of receipt of the communication. It was submitted that more than 07 days has been given to the assessee.

7. I have considered the rival submissions. The Annexure as referred by the Id.Sr. DR is in regard to the information in respect of which the approval has been granted from the Id. Pr.CIT. The notice u/s.148A(b) of the Act has clearly gives less than 07 days. As the Annexure does not override the notice and it is a notice that is primary and as it is noticed that the notice does not give the required time as provided u/s.148A(b) of the Act, respectfully following the decision of the Hon'ble Karnataka High Court in the case of Panjos Builders Pvt. Ltd., referred to supra, the notice issued u/s.148A(b) of the Act is said to be invalid and in consequence thereof the consequential assessment order also stands quashed."

3.5. We therefore respectfully following the decisions of the Hon'ble Karnataka Bench and co-ordinate bench, quash the notice issued u/s 148 of the including the assessment framed by the Id. AO.

3.6. The appeal of the assessee is allowed.

4. In the result, the both appeals of the assessee are allowed.

Order pronounced in the open court on 18.12.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 18.12.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata