



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3474 OF 2026

Akshar Developers

.. Petitioner

Versus

Asst. Commissioner of Income Tax
Central Circle-4, Thane and Ors.

.. Respondents

***Adv. Ritika Agarwal**, with Adv. Yaminee Verma, i/b Acelegal, for
the Petitioner.*

***Adv. Ashok Kotangle**, with Adv. Pranav Kulkarni, for the
Respondent/Revenue.*

**CORAM: B. P. COLABAWALLA &
FARHAN P. DUBASH, JJ.**

DATE: SEPTEMBER 22, 2026

P. C.

1. Rule. Respondents waive service. With the consent of parties,
Rule is made returnable forthwith and heard finally.

2. By the present Writ Petition, the Petitioner challenges the order
dated 29th July 2022 passed under Section 148A(d) of the Income Tax Act,
1961 (for short "**the Act**") ; the notice issued under Section 148 dated 29th
July 2022; and the subsequent order disposing of the Petitioner's objections
dated 17th February 2026. The Assessment Year in question is A.Y 2016-17.

3. In the facts of the present case, the Petitioner has e-filed its Return of Income for the Assessment Year 2016-17 on 20th December 2016, declaring his total income as Nil. Initially, Respondent No.1 had issued a Notice under Section 148 [under the erstwhile law of reassessment] on 1st April 2021 i.e. four years after the end of A.Y.2016-17. Subsequently because of the judgment of the Hon'ble Supreme Court in the case of ***Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC)]*** the Notice dated 1st April 2021 issued under the erstwhile Section 148 of the Act was to be treated as a show cause notice under Section 148A(b) of the Act. Consequently, Respondent No. 1 issued a fresh notice dated 1st June 2022 under Section 148A(b) of the Act, setting out the reasons for reopening the assessment in terms of the amended reassessment regime introduced by the Finance Act, 2021. In response to the aforesaid notice, the Petitioner filed its detailed objections on 10th June 2022. Thereafter, Respondent No. 1 passed an order dated 29th July 2022 under Section 148A(d) rejecting the objections raised by the Petitioner and issued a notice under Section 148, after obtaining approval from Respondent No. 4 [PCIT]. Aggrieved by the aforesaid order and consequential notice, the Petitioner has filed the present Writ Petition.

4. The principal ground on which the impugned notice is challenged is that the prior approval/sanction as contemplated under Section 151 of the Act was not granted by the correct specified authority. It is the contention of the Petitioner that in the present case, the sanction has been granted by Respondent No. 4 [PCIT] who is the authority mentioned in Section 151(i) of the Act. However, since the notice under Section 148 issued to the Petitioner is dated 29th July 2022, when more than three years have elapsed from the end of A.Y. 2016-17. In such a scenario, the authority competent to grant sanction was the authority mentioned in Section 151(ii), namely, the Principal Chief Commissioner or the Principal Director General or the Chief Commissioner or the Director General. It is on this basis that it is contended that the notice issued under Section 148 is invalid in law.

5. Ms. Agarwal, the learned counsel appearing on behalf of the Petitioner, has submitted that the impugned order passed under Section 148A(d) dated 29th July 2022, and the consequential notice under Section 148 dated 29th July 2022 was passed beyond three years from the end of the relevant A.Y. 2016-17. In such circumstances, as per the provisions of Section 151(ii) i.e. when more than three years have elapsed from the end of the relevant assessment year, the specified authority for obtaining the approval was either the Principal Chief Commissioner (PCCIT), or Principal Director

General (PDGIT), or where there is no PCCIT or PDGIT, the Chief Commissioner(CCIT), or the Director General (DGIT). She further submitted that in the present case the sanction/approval was obtained from Respondent No. 4 [PCIT] who is not a “specified authority” under Section 151(ii) of the Act. It was, therefore, submitted that the statutory requirement of obtaining sanction from the authority specified under Section 151(ii) had not been complied with, and consequently, the impugned order passed under Section 148A(d) and the notice issued under Section 148 of the Act are invalid in law.

6. In support of this contention the learned advocate for the Petitioner has placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC) [2024] 301 Taxman 238 (SC) [2024] 469 ITR 46 (SC)***. She submitted that the Hon'ble Supreme Court, while dealing with the issue of approval of the specified authority in terms of Section 151 of the Act, the authority specified under Section 151(i) of the new regime can grant sanction only till 30th June 2021. Any sanction to reassessment proceedings after 30th June 2021 will have to be granted by specified authority prescribed under Section 151(ii) of the Act.

7. The learned Advocate appearing on behalf of the Revenue did not dispute the above factual position and fairly stated that appropriate orders be passed.

8. We have heard the learned counsel for the parties and also perused the papers and proceedings to the above Writ Petition. In the facts of the present case, Respondent No.4 has granted the sanction for issuance of the Notice under Section 148 of the Act on 28th July 2022. Since the Notice under Section 148 issued to the Petitioner is dated 29th July 2022 a period of more than 3 years have elapsed from the end of A.Y.2016-17. In such a scenario the authority competent to grant a sanction was the authority mentioned in Section 151(ii) of the Act. For the sake of convenience, Section 151, as amended by Finance Act, 2021, is reproduced below:

“Sanction for issue of notice.

151. Specified authority for the purposes of section 148 and section 148A shall be,

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year”

(emphasis supplied)

9. We are supported in our view by the decision of the Hon'ble Supreme Court in ***Rajeev Bansal (supra)***. The Hon'ble Supreme Court, in ***Rajeev Bansal (supra)***, has for A.Y. 2017-18, drawn an illustration in paragraph 78 of it's order, wherein it is categorically held that the authority specified under Section 151(i) can grant sanction only up to 30th June 2021. Paragraph 78 of ***Rajeev Bansal (supra)*** reads thus:-

“78. For example, the three-year time limit for the assessment year 2017-2018 falls for completion on March 31, 2021. It falls during the time period of March 20, 2020 and March 31, 2021, contemplated under section 3(1) of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Resultantly, the authority specified under section 151(i) of the new regime can grant sanction till June 30, 2021.”

10. In the facts of the present case, the period of three years from the end of A.Y. 2016-17 fell for completion on 31st March 2020. Since the expiry date fell during the time period between 20th March 2020 and 31st March 2021, as contemplated under Section 3(1) of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short "TOLA"), the authority specified under Section 151(i) of the new regime could have granted sanction only till 30th June 2021. On perusal of the order, dated 29th July 2022, passed under Section 148A(d) of the Act, we find that the

aforesaid order was passed after taking approval from Respondent No.4 (Principal Commissioner of Income Tax). Since the aforesaid order was passed after the expiry of three years from the end of A.Y. 2016-17, as per the substituted provisions of reassessment, the authority specified under Section 151(ii) of the Act was required to grant approval. Accordingly, we conclude that in the present case the approval has been obtained from the authority specified under Section 151(i) of the new regime instead of the authority specified under Section 151(ii) of the new regime. Since the sanction has been obtained from the incorrect authority, the order passed under Section 148A(d) and the notice issued under Section 148 are unsustainable and would have to be quashed and set aside.

11. In view of the above discussion we set aside the order dated 29th July 2022 passed under Section 148A(d) of the Act, the consequential notice issued under Section 148 dated 29th July 2022, the order disposing of the Petitioner's objections dated 17th February 2026, and all other proceedings/orders emanating therefrom.

12. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

13. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by fax
or email of a digitally signed copy of this order.

[FARHAN P. DUBASH, J.]

[B. P. COLABAWALLA, J.]