IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3419 OF 2026

Dhruv Deepak Chheda .. Petitioner

Versus

The Income Tax Officer,
Ward 27(1)(1), Mumbai & Ors. .. Respondents

Mr. Devendra Jain a/w Mr.Shashank Mehta, Advocate for the Petitioner.

Mr.Arjun Gupta (through V.C.), Advocate for the Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: APRIL 1, 2026

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1. Mentioned. With the consent of the parties, taken out of turn.

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

3. The present Writ Petition, *inter alia,* challenges the Order dated 22nd July 2022 passed under Section 148A(d) of the Income Tax Act, 1961 (for short, "the Act"); the Notice dated 22nd July 2022 issued under Section 148 of the Act; and the consequent reassessment Order dated 11th May 2023 passed under Section 147 read with Section 144B of the Act. The Assessment Year in question is A.Y. 2017-18.

4. Amongst several jurisdictional grounds challenging the reopening of the assessment for A.Y. 2017-18, the Petitioner has, *inter-alia*, contended that the order passed under Section 148A(d), and the consequent Notice issued under Section 148, is bad in law because Respondent No.1 has not obtained appropriate prior approval/sanction of the specified authority as prescribed under Section 151 of the Act.

5. According to the Petitioner, the authority that ought to have issued the sanction was the authority as mentioned in Section 151 (ii). In the present case, admittedly, the authority granting the sanction was the authority mentioned in Section 151(i) of the Act. According to the Petitioner, this is a fatal defect, and hence, the Notice issued under Section 148, as well as the consequent reassessment order passed under Section 147, cannot stand and have to be quashed and set aside.

6. To support the argument canvassed by the Petitioner, the

Petitioner has relied upon the decision of this Court in the case of ***Alag Property Construction Private Limited vs. ACIT-Circle 15(1)(1) Mumbai & Others [Writ Petition No.39838 of 2022 decided on 8th September 2025].***

7. Mr.Arjun Gupta, the learned counsel appearing on behalf of the Revenue, did not dispute the factual position as mentioned in the Petition, and further fairly stated that the issue in the present case is squarely covered by the decision rendered by this Court in the case of ***Alag Property Construction Private Limited (Supra)***. He, therefore, submitted that appropriate orders be passed.

8. Having gone through the papers and proceedings in the above Writ Petition, as well as the judgement rendered by this Court in ***Alag Property Construction Private Limited (Supra)***, we find that the issue is squarely covered by the said decision. In that case also, the Assessment Year in question was A.Y. 2017-18. The Notice issued under Section 148 was dated 23rd August 2022. In that case, after relying upon the decision of the Hon'ble Supreme Court in ***Union of India vs. Rajeev Bansal (2024) 469 ITR 46 (SC),*** this Court held that the appropriate authority to grant sanction would have been the authority mentioned in Section 151(ii) and not the authority mentioned in Section 151(i) of the Act. This Court held that noncompliance by Respondent No.1 with the provisions of Section 151 vitiates his jurisdiction to issue a Notice under Section 148 of the Act. We find that the facts of the present case squarely fall within the ratio laid down by this Court in ***Alag Property Construction Private Limited (Supra)***, as well as the ratio laid down by the Hon'ble Supreme Court in ***Rajeev Bansal (Supra).***

9. We accordingly allow the above Writ Petition in terms of prayer clause (a) which reads thus:

> *"that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash and set aside the impugned order dated 22.07.2022 passed under section 148A(d) ("Exhibit E"); the impugned notice dated 22.07.2022 issued under section 148 ("Exhibit Fl"); the impugned assessment order dated 11.05.2023 passed under section 147 r.w.s. 144B of the Act (Exhibit "J1"); the impugned Notice of Demand dated 11.05.2023 issued under section 156 of the Act (Exhibit "J2") and the impugned Show Cause Notice dated 11.05.2023 issued under section 271F and 271AAC(1) of the Act (Exhibit "J3");"*

10. In light of this order, Mr. Jain, the learned counsel appearing on behalf of the Petitioner, undertakes to withdraw the Appeal filed by him before the CIT (Appeals) within a period of 2 weeks from the date of uploading of this order. The said undertaking is accepted. If, for any reason, the present order is challenged by the Revenue and is set aside, then the Appeal filed by the Petitioner before the CIT (Appeals) will automatically stand revived and the same shall be prosecuted on its own merits and in accordance with law.

11. 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.

12. 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.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

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