

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

ITA No. 8930/Mum/2025
(Assessment Year: 2018-19)

M/s. Bang Overseas Limited Unit No. 405, 4 th Floor, Kewal Industrial Estate, S B Marg, Lower Parel (West), Mumbai-400 013	Vs.	DCIT, Circle 6(1)(2) Aaykar Bhavan, M. K. Road, Churchgate, Mumbai-400 020
PAN/GIR No. A ABCB 2777 M		
(Appellant)	:	(Respondent)

Appellant by	:	Shri Himandhu Gandhi
Respondent by	:	Shri Vikas K. Suryawanshi (CIT DR)

Date of Hearing	:	30.04.2026
Date of Pronouncement	:	25.05.2026

ORDER

Per Saktijit Dey, Vice President:

This is an appeal by the assessee against order dated 16.10.2025 passed by National Faceless Appeal Centre (‘NFAC’ for short), Delhi for the assessment year (A.Y. for short) 2019-20.

2. At the outset, learned counsel appearing for the assessee drew our attention to Ground no. 2 and submitted that the appeal can be decided on the preliminary issue raised in the said ground. Ground no. 2 reads as under:

2. *On the facts and circumstances of the case and law, the ld. CIT(A) failed to consider that permission obtained under section 151 of the Income Tax Act, 1961 was not in accordance with the law, as the same was given by PCIT in mechanical manner without mentioning the date of permission and without jurisdiction and thus the resultant proceedings under section 148 are also bad in law and require to be quashed.*

3. As could be seen from the said ground, the assessee has challenged the validity of the notice issued u/s. 148 of the Act and the assessment order passed in pursuance thereof due to lack of proper sanction.

4. We have considered rival submissions and perused the materials on record. It is the say of the assessee that though notice u/s.148 of the Act was issued after expiry of three years from the end of the assessment year under dispute, however, in terms with section 151(ii) of the Act instead of obtaining approval of the Principal Chief Commissioner of Income Tax, the Assessing Officer has issued notice u/s. 148 of the Act after obtaining sanction of the Principal Commissioner of Income Tax, who is not the competent authority. Thus, he submitted, due to lack of proper sanction the entire proceeding is vitiated and deserves to be quashed. In support of such contention, he relied upon the following decisions:

1. *Prakash Pandurang Patil vs. ITO* [2025] 177 taxmann.com 552 (Bom)
2. *Agnello Oswin Dias vs. ACIT* [2024] 161 taxmann.com 16 (Bom HC)
3. *Shabbir Taheri vs. ITO* (in ITA No. 1574/Mum/2025)

5. He submitted, the decision of the Hon'ble Bombay High Court in case of *Prakash Pandurang Patil* (supra) has been confirmed by the Hon'ble Supreme Court. In this context, he drew our attention to the decision in case of *ITO vs. Prakash Pandurang Patil* [2025] 178 taxmann.com 8 (SC).

6. Learned Departmental Representative (ld. DR for short), though, submitted that the notice u/s. 148 of the Act was validly issued, however, he could not controvert the submissions of the assessee that the condition of section 151(ii) of the Act stand unfulfilled.

7. We have considered rival submissions, in the light of the decisions relied upon and perused the materials on record. The short issue arising for consideration is whether the notice issued u/s. 148 of the Act has been validly issued. It is the say of the assessee that the said notice is invalid due to lack of proper sanction. Undisputedly, the notice u/s.148 of the Act was issued on 07.04.2022, after expiry of three years from the end of the assessment year in dispute, which is A.Y. 2018-19. A careful perusal of the said notice clearly reveals that it was issued after obtaining prior approval of Principal Commissioner of Income Tax, Mumbai. A reading of section 151 of the Act, which provides for approval/sanction by the competent authority for issuance of notice u/s. 148 of the Act, reveals that it provides for sanctioning authorities in different situation. If the notice u/s. 148 of the Act is issued prior to expiry of three years from the end of the assessment year, then in terms with clause (i) of section 151 of the Act, the Principal Commissioner of Income Tax or Commissioner of Income Tax can grant approval. Whereas, if the notice is issued after expiry of three years from the end of the relevant assessment year, the competent authority who can grant approval in terms with clause (ii) of section 151 of the Act is Pr. Chief Commissioner of Income Tax or Chief Commissioner of Income Tax. Thus, it is proven on record that there is non-compliance with the conditions of section 151(ii) of the Act in the present case. In case of *Prakash Pandurang Patil* (supra), the Hon'ble Jurisdictional High Court, while examining an identical nature of dispute relating to the very same assessment year, has observed as under:

6. *Apart from the petitioner's contention that the proceedings would stand covered by the decision of this Court in Hexaware Technologies Ltd (supra), another contention as raised by the petitioner is in regard to the impugned notice also being contrary to the decision of this Court in Siemens Financial Services (P.) Ltd. v. Dy. CIT [2023] 154 taxmann.com 159/457 ITR 647 (Bom)/Writ Petition No. 4888 of 2022 for the reason that the proceedings were initiated well after the expiry of three years from the end of the relevant assessment year. If this be so, the contention as urged on behalf of the petitioner is that the sanction for initiating the reassessment ought to have been granted by the authorities of the rank referred to in Section 151 (ii) of the Act and not by the*

authorities of the relatively lower rank under Section 151 (1) of the Act. It is submitted that the issue in this regard is no more *res integra* in view of the pronouncement of this Court in *Siemens Financial Services (P.) Ltd (supra)* as relied on behalf of the petitioner.

7. In *Siemens Financial Services Pvt. Ltd.*, this Court held that the sanction as granted by the authority would be rendered invalid in the case it is not issued by the authorities specified in Clause (ii) in the event reassessment proceedings were initiated well after the expiry of three years from the end of the relevant assessment year. The following observations as made in *Siemens Financial Services Pvt. Ltd.* are required to be noted, which reads thus:

"24. As per section 151 of the Act, the 'specified authority' who has to grant his sanction for the purposes of section 148 and section 148A is the Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, the Chief Commissioner or Director General if more than three years have elapsed from the end of the relevant assessment year. The present petition relates to the AY 2016-17, and as the impugned order and impugned notice are issued beyond the period of three years which elapsed on 31 st March, 2020 the approval as contemplated in section 151 (ii) of the Act would have to be obtained which has not been done by the Assessing Officer. The impugned notice mentions that the prior approval has been taken of the 'Principal Commissioner of Income-tax 8' ('PCIT-8') which is bad in law as the approval should have been obtained in terms of section 151 (ii) and not section 151 (i) of the Act and the PCIT-8 cannot be the specified authority as per section 151 of the Act. Further, even in the affidavit-in-reply, the department has accepted that the approval obtained is of the 'Principal Commissioner of Income-tax-8' and, hence, such an approval would be bad in law.

25. TOLA, enacted on 29th September 2020 and came into force on 31st March 2020. It *inter alia*, provided for a relaxation of certain provisions of the Income-tax Act, 1961. Where any time limit for completion or compliance of an action such as completion of any proceedings or passing of any order or issuance of any notice fell between the period 20th March 2020 to 31st December 2020, the time limit for completion of such action stood extended to 31st March 2021. Thus, TOLA only seeks to extend period of limitation and does not affect the scope of section 151. 7

26. The Assessing Officer cannot rely on the provisions of TOLA and the notifications issued thereunder as section 151 has been amended by Finance Act, 2021 and the provisions of the amended section would have to be complied with by the Assessing Officer, 1st April 2021. Hence, the Assessing Officer cannot seek to take the shelter of TOLA as a subordinate legislation cannot override any statute enacted by the Parliament. Further, the notification extending the dates from 31 st March 2021 till 30th June 2021 cannot apply once the Finance Act, 2021 is in existence. The sanction of the specified authority has to be obtained in accordance with the law existing when the sanction is obtained and, therefore, the sanction is required to be obtained by applying the amended section 151 (ii) of the Act and since the sanction has been obtained in terms of section 151 (i) of the Act, the impugned order and impugned notice are bad in law and should be quashed and set aside."

8. The decision in *Siemens Financial Services (P.) Ltd (supra)* was subsequently followed in *Vodafone Idea Ltd. v. Dy. CIT [Writ Petition No.2768 of 2022, dated 6-2-2024]* where the Court made the following observations:

"3. The impugned order and the impugned notice both dated 7 th April, 2022 state that the Authority 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 PCIT as provided under Section 151 (ii) of the Act. The proviso to Section 151 has been inserted only with effect from 1st April, 2023 and therefore, shall not be applicable to the matter at hand.

4. *In this circumstances, as held by this Court in Siemens Financial Services Private Ltd. v. 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."*

9. *In the light of the above discussion, and when there is no dispute that the Jurisdictional Assessing Officer (JAO) had no jurisdiction to issue the impugned order and the impugned notices, the writ petition is required to be allowed. It is accordingly allowed in terms of prayer clause (b) and (d), which reads thus:-*

"(b) To issue a writ of Mandamus or direction or order in the nature of Mandamus or writ of Certiorari or any other writ under Article 226 of the Constitution of India, setting aside the impugned order under section 148A(d) dated 05.04.2022.

(d) To issue a writ of Mandamus or direction or order in the nature of Mandamus or writ of Certiorari or any other writ under Article 226 of the Constitution of India, declaring that the consequential notice dated 05.04.2022 issued under section 148 as invalid."

8. Notably, the aforesaid decision of the Hon'ble Jurisdictional High Court has been upheld by the Hon'ble Supreme Court on merits while dismissing the Special Leave Petition of the department. The other judicial precedents cited by the Id. Counsel for the assessee are in conformity with the view expressed by the Hon'ble Jurisdictional High Court in number of decisions. Thus, respectfully following the ratio laid down in the judicial presidents cited before us, we hold that the notice issued u/s.148 of the Act is invalid due to lack of proper sanction in terms with section 151(ii) of the Act. That being the case, the assessment order passed in pursuance thereof has to be declared as invalid. Accordingly, we quash the assessment order. The order of Id. First appellate authority is set aside. In view of our decision above, the other grounds having become academic are kept open.

9. In the result, the appeal is allowed.

Order pronounced in the open court on 25.05.2026

Sd/-

(Prabhash Shankar)
Accountant Member

Sd/-

(Saktijit Dey)
Vice President

Mumbai; Dated : 25.05.2026

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai