

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "B" BENCH : PUNE

BEFORE DR. MANISH BORAD, ACCOUNTANT MEMBER &
SHRI VINAY BHAMORE, JUDICIAL MEMBER

I.T.A.No. 1398/PUN/2025
(Assessment Year 2015-2016)

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| Suresh Vitthalrao Barge, 73, Gitai Bazar Road, Georai, Beed, Maharashtra PAN : AHPPB 9123 K (Appellant) | vs. | ITO, Ward-1(2), Beed (Respondent) |
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| For Assessee | : | Shri Digambar Surwase, CA |
| For Revenue | : | Shri Umesh Phade, Addl.CIT |

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| Date of Hearing | : | 26.11.2025 |
| Date of Pronouncement | : | 20.01.2026 |

ORDER

PER : MANISH BORAD, AM

This appeal at the instance of the assessee is directed against the order of Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**"CIT(A)"**], dated 18/03/2025 passed under section 250 of the Income Tax Act, 1961 (**"Act"**) which is arising out of order passed u/s. 143(3) r.w.s. 147 of the Act dated 26.12.2018 by the ITO, Ward-1(2), Beed, for the Assessment Year (**AY**) 2015-16.

2. The assessee has raised the following grounds of appeal:-

"1. On facts and circumstances of case and in law, the learned CIT(A) (NFAC) erred in not quashing the entire /

whole re assessment proceedings which was completed without providing the reasons for reopening of assessments. The appellant prays for just, fair and appropriate relief.
(₹ 40,73,160/-)

2. *On facts and circumstances of case and in law, the learned CIT(A) (NFAC) erred in concluding that appellant had not asked for the reasons for reopening of an assessment by ignoring the evidence produced by the appellant during the appellate proceedings. The appellant submit that assessment completed without providing the reasons for reopening of case is void ab into and bad in law. The appellant prays for just, fair and appropriate relief.*
3. *On facts and circumstances of case and in law, CIT(A) erred in confirming addition of Rs 25,25,041/- u/s 56(2) (viiB) of IT Act, 1961. The Ld CIT(A) erred in holding that provisions of section 56(2)(viiB) applicable to stock in trade. The appellant prays for just, proper and appropriate relief.*
4. *On facts and circumstances of case and in law, CIT(A) erred in confirming addition of Rs 47,74,213/- under the head income from other sources. The Ld CIT(A) erred in holding that appellant is not carrying a business of plotting and erred in holding advance from prospective buyers are not covered under section 44AD of IT Act, 1961. The appellant prays for just, proper and appropriate relief.*
5. *On facts and circumstances of case and in law, CIT(A) erred in not quashing the entire / whole assessment proceedings which was completed on the basis of the invalid notice issued under section 148 of the Income Tax Act, 1961. The appellant prays for just, proper and appropriate relief.*
6. *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

3. Further, assessee raised the following additional grounds of appeal:-

- “1. *On the facts and circumstances of case and in law, appellant submit that reasons for reopening were recorded on the basis of incorrect and non-existent facts. Accordingly, the notice issued under section 148 of the Income Tax Act, 1961 on the basis of such reasons is void ab intio and bad in law. Hence, appellant prays that assessment completed on the basis of such invalid notice is liable to be quashed. The appellant prays for just, proper and appropriate relief.*

2. *On the facts and circumstances of case and in law, appellant submit that sanction given under section 151 of Income Tax Act, 1961 to issue notice under section 148 of Income Tax Act, 1961 is not a valid sanction. The sanction granted is without application of mind. Accordingly, the notice issued on the basis of such sanction and the consequent assessment proceedings is liable to be quashed. The appellant prays for just, proper and appropriate relief.*
3. *On the facts and circumstances of case and in law, the appellant submit that additions made by the learned AO on issues other than that of reopening the assessment are not in accordance with Income Tax Act, 1961. The appellant prays for just, proper and appropriate relief.*

The appellant submits that the additional grounds raised are legal in nature and as all the facts are on record, the appellant requests for admission of the above additional grounds of appeal.”

4. At the request of the learned counsel for the assessee, we first take up ground No.1, through which assessee has challenged the validity of the re-assessment proceedings on the ground that assessee has not been provided with the reasons recorded for reopening in spite of specific request made to the Assessing Officer.
5. Brief facts of the case are that assessee is an individual and filed return of income for A.Y. 2015-16 on 31/10/2015 declaring total income of ₹ 5,61,630/-. The assessee also furnished the tax audit report along with return. The Ld.Assessing Officer (**AO**) based on the information about the transaction of immovable property entered into by the assessee and there being difference in the stamp duty valuation, issued a notice u/s. 148 of the Act, dated 12/02/2018 duly served upon the assessee. Thereafter, the

re-assessment proceedings were carried out and the Ld.AO made the addition of ₹ 47,74,213/- u/s. 69 of the Act and ₹25,25,041/- on account of difference in stamp duty value and income assessed at ₹ 78,60,884/-

6. Aggrieved, assessee preferred an appeal before the Ld.CIT(A), but failed to succeed. Now, assessee is in appeal before this Tribunal.

7. Learned counsel for the assessee, with reference to the ground No.1 of the appeal, submitted that a specific request was made on 10/04/2018 in the e-proceedings for providing copy of reasons recorded for reopening of the assessment and approval received from Jt./Addl. Commissioner of Income Tax. However, the assessee was not provided the needful. Reliance placed on the judgment of the Hon'ble Jurisdictional High Court in the case of *CIT vs. M/s. Trend Electronics* (ITA No. 1867/2013, dt. 16/09/2015), in which the Hon'ble Court has held that recording of reasons and furnishing of the same has to be strictly complied with as it is a jurisdictional issue.

8. On the other hand, Ld. Departmental Representative (**DR**) vehemently argued supporting the order of Ld. CIT(A).

9. We have heard rival contentions and perused the records placed before us. The assessee has raised ground No.1 challenging the validity of re-assessment proceedings on the ground that reasons recorded for reopening were not provided

to the assessee, as a result of which, the assessee could not raise objections against the reasons recorded and therefore, in the light of the settled judicial precedents, Ld.AO failed to assume the proper jurisdiction prior to carrying out the re-assessment proceedings in question. We observe that the case of the assessee pertains to A.Y. 2015-16 for which regular return of income stood furnished. The Ld.AO issued notice dated 12/02/2018. In response to the notice, the assessee vide letter dated 10/04/2018 requested the Ld.AO to provide the reasons recorded and the copy of the letter is reproduced below:-

To

April 10 2018

The Income Tax officer,
Ward 1,
Beed,


Name : Shri. Suresh Vitthalrao Barge
PAN : AHPPB9123K
Assessment Year : 2015-2016
Subject : Submission of return of income u/s 148

Sir,

I am in receipt of your notice u/s 148 of the Income Tax Act, 1961. I had E-filed return of income u/s 148 of the Income Tax Act, 1961 on 09.04.2018 vide acknowledgment no 69876994109042018. The copy of return of filed acknowledgment is enclosed herewith for your reference.

You are requested to provide the copy of reasons recorded by yourself for issuing notice u/s 148 of Income Tax Act, 1961. Further, you are requested to provide the copy of approval received from Jt/Addl. Commissioner of Income Range -3 Aurangabad for reopening of an assessment u/s 148 of the Income Tax Act, 1961.

Thanking You,
Yours Faithfully,


Suresh Vitthalrao Barge

Encl :- As above

10. We also note that during the e-proceedings carried out vide notice u/s. 148 of the Act, dated 12/02/2018, assessee has requested for providing copy of reasons recorded as well as approval received from Jt./Addl. Commissioner of Income Tax. Copy of e-proceedings response/acknowledgment is reproduced below:-

Acknowledgement Number : 10041810051447

| e-Proceedings Response Acknowledgement | | | | |
|--|--|-----------------------------|--------------|---|
| INCOME TAX DEPARTMENT | | | | |
| PROCEEDING DETAILS | | | | |
| PAN/TAN | AIHPPB9123K | | | |
| Name | SURESH VITTHALRAO BARGE | | | |
| Assessment Year | 2015-16 | | | |
| Proceeding Name | Assessment Proceeding u/s 147 | | | |
| Document Reference ID | 100000001545670 | | | |
| Notice Section | 148 | | | |
| Description | [ITBA]Notice under section 148 of the Income Tax Act, 1961 | | | |
| Notice Issue Date | 12-02-2018 | | | |
| Due Date for Submission | | | | |
| Communication Sent date | | | | |
| Document Id | ITBA/AST/S/148/2017-18/1008762682(1) | | | |
| RESPONSE SUBMITTED | | | | |
| Remarks | I have filed return of income in response to notice issued under section 148 of the Income Tax Act 1961. You are requested to provide the copy of reason recorded and approval received from Joint/ Addl. Commissioner of Income tax. Thanks and Regards | | | |
| Hash * value of remarks | LldfZ/wKIBiyi+Tp8ozlwFlma5p7iiEiSaRQ9iusTE= | | | |
| Sl No. | Attachment name | Description | Size (bytes) | Hash * value of attachment |
| 1 | REPLY TO SECTION 148 NOTICE.pdf | Reply to section 148 Notice | 533710 | WNNi+8Afbzm2UTd62s4N oS/lukRn5pcGBIDe5me1 mgs= |
| This is a system generated acknowledgement and does not require signature. | | | | |
| * Hash : This value will uniquely identify the uploaded files and remarks. | | | | |

So far as the fact that whether Ld.AO has given the reasons recorded to the assessee or not. We note that during the appellate proceedings, Ld.CIT(A) called for remand report from the Ld.AO on this very issue and in this remand report dated 14/02/2025 the Ld.AO at point No.5 has stated as under:-

“5. made in the written submission was correct? Have you provided copy of the reasons recorded or not?”, it is submitted

that copy of the reasons recorded for re-opening of the case was not provided by this office to the assessee as the same was never asked by the assessee as per record.”

11. From going through the remand report content given by the Ld.AO it remains an uncontroverted fact that copy of the reasons recorded for reopening of the case were not provided by the Ld.AO to the assessee alleging that the assessee has never asked for the same. But the e-proceedings, acknowledgment reproduced above, clearly shows that assessee has requested for supply of reasons recorded and Ld.AO has not accepted the request of the assessee and has not supplied the reasons recorded for reopening of the assessment. We therefore find that specific request has been made by the assessee for supply of reasons recorded for reopening so as to raise objections to such reasons and that the Ld.AO in spite of request being made by the assessee has not provided the reasons recorded for reopening to the assessee. Under these given facts and circumstances of the case, we would like to note of the judgment of Hon'ble Jurisdictional High Court in the case of *M/s. Trend Electronics* (supra), where also the assessee sought copy of recorded reasons for reopening but the same were not supplied to the assessee and the Hon'ble Court has decided this issue observing as follows:-

“8. We find that the impugned order merely applies the decision of the Apex Court in GNK Driveshafts (India) Ltd.

(supra). Further it also follows the decision of this Court in *Videsh Sanchanr Nigam Ltd. (supra)* in holding that an order passed in reassessment proceedings are bad in law in the absence of reasons recorded for bad in issuing a reopening notice under Section 148 of the Act being furnished to the assessee when sought for. It is axiomatic that power to reopen a completed assessment under the Act is an exceptional power and whenever revenue seeks to exercise such power, they must strictly comply with the prerequisite conditions viz. Reopening of reasons to indicate that the Assessing Officer had reason to believe that income chargeable to tax has escaped assessment which would warrant the reopening of an assessment. These recorded reasons as laid down by the Apex Court must be furnished to the assessee when sought for so as to enable the assessee to object to the same before the Assessing Officer. Thus in the absence of reasons being furnished, when sought for would make an order passed on reassessment bad in law. The recording of reasons (which has been done in this case) and furnishing of the same has to be strictly complied with as it is a jurisdictional issue. This requirement is very salutary as it not only ensures reopening notices are not lightly issued. Besides in case the same have been issued on some misunderstanding/misconception, the assessee is given an opportunity to point out that the reasons to believe as recorded in the reasons do not warrant reopening before the reassessment proceedings are commenced. The Assessing Officer disposes of these objections and if satisfied with the objections, then reopening notice under Section 148 of the Act is dropped/withdrawn otherwise it is proceeded with further. In issues such as this, i.e. where jurisdictional issue is involved the same must be strictly complied with by the authority concerned and no question of knowledge being attributed on the basis of implication can arise. We also do not appreciate the stand of the revenue, that the respondent-assessee had asked for reasons recorded only once and therefore seeking to justify non-furnishing of reasons. We expect the state to act more responsibly.

9. In view of the fact that the order of the Tribunal has only applied the settled position of law in allowing the respondent-assessee's appeal. No substantial question of law arises for our consideration.”

12. Now on going through the ratio laid down by the Hon'ble Jurisdictional High Court in the case of *M/s. Trend Electronics (supra)* we find that the ratio laid down therein is squarely applicable on the facts of the instant case and that the reasons

recorded for reopening have not been provided to the assessee in spite of specific request made. Therefore, we find that the Ld.AO failed to assume proper jurisdiction before carrying out the re-assessment proceedings and in the light of the above judgment, we hereby quash the re-assessment proceedings as untenable and bad in law. Finding of the Ld.CIT(A) on this issue is set aside. Ground No.1 of the appeal raised by the assessee is allowed.

13. So far as the remaining grounds of appeal as well as additional grounds of appeal, since we have already allowed the ground No.1 and quashed the re-assessment proceedings, dealing with the remaining grounds of appeal would be merely academic in nature and therefore they are held to be dismissed as infructuous.

14. In the result, appeal of the Assessee is allowed as per the terms in indicated above.

Order pronounced in the open Court on 20.01.2026.

Sd/-
[VINAY BHAMORE]
JUDICIAL MEMBER

Sd/-
[MANISH BORAD]
ACCOUNTANT MEMBER

Pune, Dated 20th January, 2025

vr/-

Copy to

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|----|-----------------------------|
| 1. | The appellant |
| 2. | The respondent |
| 3. | The Ld. PCIT concerned. |
| 4. | D.R. ITAT, "B" Bench, Pune. |
| 5. | Guard File. |

By Order

//True Copy //

Assistant Registrar,
ITAT, Pune.

| S.No | Details | Date | Initials | Designation |
|------|--|------------|----------|-------------|
| 1 | Draft dictated on | 09.01.2026 | | Sr. PS/PS |
| 2 | Final Draft placed before author | 12.01.2026 | | Sr. PS/PS |
| 3 | Draft proposed & placed before the Second Member | .01.2026 | | JM/AM |
| 4 | Draft discussed/approved by Second Member | .01.2026 | | AM/AM |
| 5 | Approved Draft comes to the Sr. PS/PS | .01.2026 | | Sr. PS/PS |
| 6 | Kept for pronouncement on | .01.2026 | | Sr. PS/PS |
| 7 | Date of uploading of Order | .01.2026 | | Sr. PS/PS |
| 8 | File sent to Bench Clerk | .01.2026 | | Sr. PS/PS |
| 9 | Date on which the file goes to the Office Superintendent | | | |
| 10 | Date on which file goes to the A.R. | | | |
| 11 | Date of Dispatch of order | | | |