

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

AND

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.2762/Del/2025

(ASSESSMENT YEAR 2017-18)

Arihant Agrifoods Pvt. Ltd., C/o Dr. Kapil Goel, F-26/124, Sector 7, Rohini, New Delhi-110085, <i>PAN-AFIPJ3833M</i>	Vs.	ITO, Ward-3(1), Delhi.
(Appellant)		(Respondent)
Assessee by	Shri Sandeep Goel, Adv. and Mukul Gupta, Adv.	
Department by	Ms. Indu Bala Saini, Sr. DR	
Date of Hearing	22.01.2026	
Date of Pronouncement	06.03.2026	

ORDER

PER MANISH AGARWAL, AM:

This appeal is filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ['Ld. CIT(A)' in short], in Appeal No. NFAC/2016-17/10290719 dated 27.03.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act' in short) arising out of the assessment order passed u/s 147 r.w.s 144 read with section 144B of the Income Tax Act ('the Act' for short) for the Assessment Year 2017-18.

2. In grounds of appeal Nos. 1 to 4, assessee has challenged the reassessment order passed u/s 147 of the Act as the notice issued u/s 148 after obtaining approval from the authority which was not competent to grant approval u/s 151 of the Act and thus is invalid order. Though the ld. CIT(A) has restored the appeal to the file of AO for fresh consideration as the assessee had not participated before the AO. However, before us, the assessee raised legal grounds of appeal challenging the validity of the notice issued u/s 148 of the Act which are purely legal grounds therefore, the same are adjudicated at this stage.

3. Heard both the parties at length and perused the material available on record. From the perusal of the fresh notice issued u/s 148 of the Act after passing the order u/s 148A(d) on 28.07.2022, it is observed that the same were issued after obtaining the approval from the Pr. Commissioner of Income Tax-01, Delhi accorded on 27.07.2022 vide reference No.966.

4. Section 148 of the Act was substituted by the Finance Act, 2021 w.e.f. 01.04.2021 and the notice issued u/s 148 of the Act under the old provisions of section 148 of the Act could be issued only upto 31.03.2021. This issue stands settled by the Hon'ble Supreme Court in **Union of India vs. Ashish Agarwal** reported in **444 ITR 1 (SC)**. In the instant case, after the judgement of Ashish Agarwal(supra), the AO has issued notice u/s 148A(b) on 29.05.2022, which was replied by the assessee on 14.06.2022. Subsequently, order u/s 148A(d) of the Act was passed on 28.07.2022, followed by the notice u/s 148 of the Act on the same date, i.e. on 28.07.2022. This fresh notice u/s 148 of the Act dt. 28.07.2022, was issued after obtaining approval of Principal Commissioner of Income Tax-01, Delhi which is contrary to the provisions of section 151 of the Act as amended/substituted by the

Finance Act, 2021. As per amended section 151 of the Act, if more than three years have lapsed from the end of the relevant assessment year, approval of Principal Chief Commissioner of Income-tax or Principal Director General or Chief Commissioner or Director General is mandatorily be obtained before the issue of notice u/s 148 of the Act. In the present case since the notices u/s 148 was issued on 28.07.2022 for AY 2017-18 which is after the expiry of more than three years from the end of relevant assessment year, therefore, sanction/approval of Principal Chief Commissioner of Income-tax or Principal Director General or Chief Commissioner or Director General was necessary. The Hon'ble Supreme Court in ***Union of India vs. Rajeev Bansal, [2024] 469 ITR 46 (SC)*** has made it very clear. The hon'ble jurisdictional high court in the case of ***Communist Party of India (Marxist) vs. CIT Exmpt.*** reported in (2025) 174 Taxmann.com925 (Delhi) has dealt this issue and held as under:

“10. The impugned notice is also liable to be set aside on the ground that it was issued without the approval of the authority specified under Section 151 of the Act. Since the impugned notice was issued beyond the period of three years from the end of the relevant assessment year, thus, in terms of Section 151(ii) of the Act, the same was required to be approved by the Principal Chief Commissioner or Principal Director General or where there is no such authority, by Chief Commissioner or Director General. The determination of the specified authority for grant of approval under Section 151 of the Act depends on whether the notice under Section 148 of the Act has been issued after the expiry of three years from the end of the relevant assessment year or within the said period.”

5. As observed above, notices u/s 148 of the Act was issued on 28.07.2022 after obtaining the approval of Pr.CIT-01, Delhi thus such notice is invalid notice and is hereby quashed. Accordingly, all the grounds of appeal raised by the assessee are allowed.

6. In the result appeal of the assessee is allowed.

Order is pronounced in the Open Court 06.03.2026

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 06.03.2026

Amit Kumar, Sr. P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI