

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI MANJUNATHA G., ACCOUNTANT MEMBER**

**ITA Nos.1662&1663/Kol/2025
Assessment Years: 2016-17 & 2017-18**

DCIT, Circle-5(1), Kolkata	Vs	M/s PCB Enterprise Pvt. Ltd. 23A, 4 th Floor, Netaji Subhas Road, Kol-1. (PAN: AABCO8195K)
(Appellant)		(Respondent)

Assessee by : Shri Miraj D. Shah, AR
Revenue by : Shri S. B. Chakraborty, Sr. DR

Date of Hearing : 06.04.2026
Date of Pronouncement : 06.04.2026

ORDER

Per George Mathan, JM:

These are the two appeals filed by the revenue against the orders of the Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as the 'CIT(A)'] in appeal no.NFAC/2015-16/10283122 & NFAC/2016-17/10261804 dated 27.03.2025 & 18.03.2025 for the assessment years 2016-17 & 2017-18.

2. Shri Miraj D. Shah, AR, represented on behalf of the assessee and Shri S. B. Chakraborty, Sr. DR represented on behalf of the revenue.

3. Both the appeals have been filed by the revenue with delays of 54 days. The revenue has filed affidavits for condonation of delays. The reasons in the affidavits are plausible and valid. Consequently, the

delays in filing the appeals are hereby condoned and we proceed to dispose off the appeals on merits.

4. It was submitted by the ld. Sr. DR that the ld. CIT(A) has allowed both the appeals of the assessee by quashing the reassessment notices as the notices have been approved by the Pr. CIT as against Pr. CCIT. It was the submission that Pr. CIT also has the power to give approval. It was prayed that the order of the ld. CIT(A) may be reversed.

5. In reply, the ld. AR submitted that the reopening in these cases done is beyond three years. It was submitted by the Ld. AR that the impugned assessment years involved are A.Ys 2016-17 & 2017-18. It was submission that in both cases, notices u/s. 148 of the Act came to be issued on 26.08.2022. It was submission that the notice has been issued beyond 03 years. It was submission that the approval for the issuance of notices u/s.148 of the Act beyond 3 years and the amount is above 50,00,000/- which should be granted by Pr.CCIT. It was submission that the approval is wrong and consequently, the notice issued 148 of the Act is also invalid.

6. In reply, Ld. Sr. DR vehemently supported the orders of the AO and CIT(A).

7. We have considered the rival submissions. We find that both the assessments were reopened after three years from the end of the impugned assessment years as the notices u/s 148 of the Act were issued on 26.08.2022, whereas the assessment year involved are 2016-

17 & 2017-18 and thus is beyond three years from the end of the relevant assessment year. Therefore, in term of section 151 of the Act, the approval was required to be taken from the ld. PCCIT. Accordingly, in our opinion, the approval has not been granted by the competent authority as prescribed under the Act under section 151(ii) of the Act. Therefore, the orders passed u/s 148A(d) of the Act and notices issued u/s 148 of the Act with consequent assessment are nullity and bad in law. The issue is covered by the decision of Hon'ble Bombay High Court in Writ Petition No.3249 of 2022 in case of Agnello Oswin Dias Vs. ACIT dated 22.02.2024, wherein it has held as under:-

“4. The impugned order and the impugned notice both dated 22 April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai-5. The matter pertains to Assessment Year ("AY") 2018-2019 and since the impugned order as well as the notice are issued on 22 April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151 (ii) of the Act. The proviso to Section 151 of the Act has been inserted only with effect from 1" April 2023 and, therefore, shall not be applicable to the matter at hand.

5. In the circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., the sanction is invalid and consequently, the impugned order and impugned notice both dated 22nd April 2022 under Sections 148A(d) and 148 of the Act are hereby quashed and set aside.”

8. Similarly, decision of Hon'ble Bombay High Court in case of Vodafone Idea Ltd. Vs. DCIT vide WP No. 2768 of 2022 dated 06.02.2024, wherein it has followed the decision of Agnello Oswin Dias (supra) as under:-

“1. Petitioner is impugning a notice dated 19 March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order passed under Section 148A(d) of the Act and the notice both dated 7th

April 2022 issued under Section 148 of the Act. One of the grounds raised is that the sanction to pass the order under Section 148A(d) of the Act and issuance of notice under Section 148 of the Act is invalid inasmuch as the sanction has been admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").

2. Petitioner's request for a copy of the sanction has also been denied. Even in the affidavit in reply, the Department is refusing to give the sanction which makes us wonder what is the national secret involved in that, that Assessee is being refused what he is rightfully entitled to receive from the Department. In the affidavit in reply, the stand taken by the Revenue is it will be made available during the re-assessment proceeding.

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

4. In these circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. 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.

5. Petition disposed. No order as to costs. All rights and contentions are kept open.

6. For completion of record, Respondents are directed to make available to Petitioner copy of the approval form as well as the approval accorded for issuance of order under Section 148A(d) and Section 148 of the Act within one week from this order being uploaded."

9. Similarly, in the case of Haresh Kumar Dungarmal Jain Vs. DCIT vide ITA No. 1933/PUNE/2024 vide order dated 24.02.2025 & Davos International Fund Vide ITA No.1190/MUM/2024, dated 13.01.2025 the issue is decided on the same lines. Similar ratio has been laid down in

the cases as decided by the Hon'ble Bombay High Court Alag Property Construction Private Limited Vs ACIT Writ Petition No. 3938 of 2022 order dated 8.9.2025 and in Ramesh Bachulal Mehta Vs Income Tax Officer (2025) 177 taxmann.com 606 (Bom).

10. Further the Hon'ble Supreme Court in the case of ACIT, International Taxation Vs. LinkedIn Singapore Pte. Ltd., reported in [2025] 180 taxmann.com 158 (SC) has dismissed the SLP filed by the revenue and upheld the decision of the Hon'ble Bombay High Court wherein it was held that where approval for initiation of reassessment proceedings was granted by Commissioner after expiry of 3 years from end of relevant assessment year, said approval should have been granted by Principal Chief Commissioner, thus, impugned order passed under section 148A(d) of the Act and impugned notice issued under section 148 of the Act were to be quashed.

11. A perusal of the facts in the present case clearly shows that the law as on the date for issuance of notice has been repeatedly held by various Hon'ble High Courts and the Hon'ble Apex Court. The notice has also been issued on 26.08.2022. The notice has been issued beyond the period of 3 years from the end of the impugned assessment year. As it is noticed that the approval is to be granted in such cases by the Principal Chief Commissioner of Income Tax but the approval has been granted by the Principal Commissioner of Income Tax, therefore, respectfully

following the above judicial pronouncements, the approval granted in the case of the assessee for the years under consideration is held to be invalid and accordingly the notices u/s. 148 of the Act stands quashed. Consequently, the assessment orders passed in both the cases as consequence of the invalid notice issued 148 of the Act also stands quashed.

12. In the result, both the appeals of the revenue stand dismissed.

Order pronounced in the open court on 06/04/2026.

Sd/-
[MANUNATHAN G]
लेखा सदस्य/**Accountant Member**

Sd/-
[GEORGE MATHAN]
न्यायिक सदस्य/**Judicial Member**

Dated: 06/04/2026
RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent –
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches