

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

HYBRID HEARING

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकर अपील सं. / ITA No.530/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2016-17)**

JCIT (in situ) Aaykar Bhawan, Rishi Nagar Ludhiana – 141001	<u>बनाम/</u> Vs.	M/s Sharmanji Yarns Pvt. Ltd. Village Lakhowal Road Kohara, Jandiali Ludhiana - 141112
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAHCS-6629-R		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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**2. आयकर अपील सं. / ITA No.596/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2016-17)**

M/s Sharmanji Yarns Pvt. Ltd. Village Lakhowal Road Kohara, Jandiali Ludhiana - 141112	<u>बनाम/</u> Vs.	DCIT-Circle-1 Aaykar Bhawan, Rishi Nagar Ludhiana – 141001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAHCS-6629-R		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee By	:	Shri Tej Mohan Singh (Advocate) – Ld. AR
Revenue By	:	Smt. Kusum Bansal (CIT)(Virtual) a/w Dr. Ranjit Kaur (Addl. CIT) – Ld. DRs

सुनवाईकीतारीख/ Date of Hearing	:	08-10-2025
घोषणाकीतारीख / Date of Pronouncement	:	12/11/2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid cross-appeals for Assessment Year (AY) 2016-17 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 25-02-2025 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s 144B of the Act on 21-03-2024. The sole issue that arises for our consideration is addition of alleged bogus purchases for Rs.58.68 Crores as made by Ld. AO in the assessment order for purchases made by the assessee from eight parties as tabulated on Page-2 of the assessment order. The Ld. CIT(A) has estimated addition of 9% against the same. Aggrieved, the assessee as well as revenue is in further appeal before us.
2. The Ld. AR, at the outset, raised pertinent legal ground by way of ground no.1 and stated that reopening is bad-in-law and in derogation of the provisions of Sec.151A read with CBDT Notification No.18/2022 dated 29-03-2022 which mandate issuance of such notice by Faceless Assessing Officer (FAO) only. The Ld. AR asserted that in terms of ratio of various decisions of jurisdictional High Court, issuance of notice u/s 148 by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO) would vitiate the entire assessment proceedings. The Ld. AR referred to notice issued by Ld. AO u/s 148 on 30-03-2023 which is kept on Page No.10 of the paper-book. This notice has been issued by *Megha Garg, Circle-1, Ludhiana* who happens to be jurisdictional

Assessing Officer (JAO) of the assessee. The CIT-DR could not controvert the said position but stated that the matter is under consideration before Hon'ble Supreme Court.

3. The undisputed fact that emerges is that notice u/s 148 has been issued on 30-03-2023 by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO). This notice, in terms of notification of the Central Government dated 29-03-2022 u/s 151A sub-section (1) and (2) of the Income Tax Act, was required to be issued by FAO. The failure to do so would vitiate the assessment proceedings as per the lead decision of Hon'ble High Court of Punjab & Haryana in the case of **Jatinder Singh Bhangu (165 Taxmann.com 115; dated 19-07-2024)**, the substantive portion of which read as under: -

15. From the perusal of Section 151A, it is quite evident that scheme of faceless assessment is applicable from the stage of show cause notice under Section 148 as well as 148A. Clause 3 (b) of notification dated 29.03.2022 issued under Section 151A clearly provides that scheme would be applicable to notice under Section 148. Even otherwise, it is a settled proposition of law that assessment proceedings commence from the stage of issuance of show cause notice. The object of introduction of faceless assessment would be defeated if show cause notice under Section 148 is issued by Jurisdictional Assessing Officer. The respondents are heavily placing reliance upon office memorandum and letter issued by departmental authorities. It is axiomatic in tax jurisprudence that circulars, instructions and letters issued by Board or any other authority cannot override statutory provisions. The circulars are binding upon authorities and Courts are not bound by circulars. The mandate of Section 144B, 151A read with notification dated 29.03.2022 issued thereunder is quite lucid. There is no ambiguity in the language of statutory provisions, thus, office memorandum or any other instruction issued by Board or any other authority cannot be relied upon. Instructions/circulars can supplement but cannot supplant statutory provisions.

16. In the wake of above discussion and findings, we find it appropriate to subscribe view expressed by Bombay, Telangana and Gauhati High Court. The instant petitions deserve to be allowed and accordingly allowed.

17. The notices issued by Jurisdictional Assessing Officer under Section 148 are hereby quashed with liberty to respondent to proceed in accordance with procedure prescribed by law.

This decision has been followed by the same court in several subsequent decisions, the latest being the decision in **Om Satya Overseas (178 Taxmann.com 137; dated 29-08-2025)**. No change in facts has been demonstrated and nothing has been shown that the aforesaid decisions have subsequently been stayed by any higher appellate forums, in any manner. Therefore, respectfully following the same, we would hold that the impugned notice as issued by JAO u/s 148 on 30-03-2023 is liable to be quashed on this score only and the consequential assessment so framed by Ld. AO would not survive.

4. The Ld. AR has raised another pertinent legal issue to contend that the case was reopened beyond three years and the same is without requisite approval of the specified authority. The specified authority, as per statutory requirement of Sec. 151(ii), would be Ld. Pr. CCIT whereas the approval has been taken by Ld. AO from PCIT-1, Ludhiana which is not the specified authority in the case of the assessee as per the provisions of Sec. 151(ii) of the Act. To support, the same, reference has been made to various decisions including the decision of Hon'ble Bombay High Court in the case of **Mrs. Chitra Supekar vs ITO (453 ITR 530)** followed by same court in **Gigantic Mercantile Pvt. Ltd. (165 Taxmann.com 646)**. Similar is stated to be the view of Hon'ble Delhi High Court in the case of **Twylight Infrastructure Pvt. Ltd. (463 ITR 702)** as well as in **Ashok Kumar Makhija (466 ITR 283)**.

5. In concluding para of order passed by Ld. AO under Clause (d) of Sec.148A (as placed on Page Nos. 6 to 9 of the paper-book), it could clearly be seen that Ld. AO has mentioned as under: -

“As such, it is a fit case for issuance of notice under section 148 to bring that escaped income and any other income which comes to the notice subsequently during the course of assessment proceedings to tax. This order is passed with the prior approval of the Pr. Commission of Income Tax-1, Ludhiana.”

It also emerges that notice under clause (b) of Sec.148A was issued against the assessee on 24-03-2023 and subsequent notice under clause (d) of Sec.148A has been issued to the assessee on 28-03-2023. The order under clause (d) of Sec.148A has been passed by Ld. AO on 30-03-2023 and finally, notice u/s 148 has been issued on 30-03-2023. The present AY being AY 2016-17 clearly falls beyond three years from the end of the relevant AY (the three years period for AY 2016-17 would expire on 31/03/2020). The record clearly indicate that the sanction in the present case has been accorded by Ld. Pr. CIT-1, Ludhiana which could only be in respect of cases if three years or less than three years have elapsed from the end of the relevant assessment year since the case would fall under the provisions of clause (i) of Section 151 of the Act. However, in the present case, impugned notice u/s 148 has been issued on 30-03-2023 which clearly falls beyond three years. In such a case, clause (ii) of Section 151 of the Act would apply which mandate sanction of either Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General for issuance of notice under Section 148 of the Act. No such sanction is shown to have been taken by Ld. AO from specified authority. Therefore, in the absence of any valid satisfaction, notice issued u/s 148 would be void-ab-initio. The cited case laws of Hon’ble High Courts duly support out view. Therefore, the

assessment is liable to be quashed on this score also. We order so. The assessee succeeds on this ground also.

6. Since we have allowed twin legal grounds of the assessee and quashed the assessment as framed by Ld. AO, delving into other grounds of assessee's appeal as well as revenue's appeal has been rendered merely academic in nature and hence, not dealt with by us. The impugned assessment order stands quashed. The addition made by Ld. AO would not survive.

7. The assessee's appeal stand allowed in terms of our above order. The revenue's appeal has been rendered infructuous.

Order pronounced on 12/11/2025

Sd/-

(RAJPAL YADAV)
VICE PRESIDENT

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 12/11/2025

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH