आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE
BENCH: A

BEFORE SHRI BALAKRISHNAN S., ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

<table>
<tr><td colspan="3">ITA No. 1944/Bang/2025
निर्धारण वर्ष/Assessment Year: 2018-19)</td></tr>
<tr><td>Shri Chandra S Sabhapathi,
No. 143, Shashichandra Nilaya,
1st cross, KSRTC Layout,
Near Kashipura, Vinobanagar,
Shivamogga-577204,
Karnataka.</td><td rowspan="2">Vs.</td><td>The Income Tax Officer,
Ward – 1,
Shivamogga,
Karnataka.</td></tr>
<tr><td>अपीलार्थी Appellant</td><td>प्रत्यर्थी Respondent</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td colspan="2">Permanent Account Number of Assessee:</td><td>BIVPC4752R</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td colspan="2">अपीलार्थी द्वारा/Appellant represented by:</td><td>Ms. Richa Bachiwala, CA &
Shri Rahul Modi, CA</td></tr>
<tr><td colspan="2">प्रत्यर्थी द्वारा/Respondent represented by:</td><td>Shri Sreenivasa Karthik, ACIT-DR</td></tr>
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सुनवाई की तारीख / Date of conclusion of hearing:	**01-06-2026**
घोषणा की तारीख / Date of pronouncement:	**04-08-2026**

आदेश / ORDER

PER SHRI SOUNDARARAJAN K., JUDICIAL MEMBER:

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 12/06/2025 in respect of the A.Y. 2018-19.

2. The brief facts of the case are that the assessee is an individual and not filed his return of income. The AO based on the specific information that the assessee had carried out the sale transaction during the financial year, had initiated proceedings u/s. 147 of the Act by issuing a notice u/s. 148A(b) of the Act. The assessee had not responded to the said notice and therefore an order u/s. 148A(d) was made on 07/04/2022 and thereafter notice u/s. 148 was also issued on 12/04/2022. Thereafter, the assessee filed his return of income declaring a total income of Rs. 90,490/- which was treated as invalid since the assessee had failed to e-verify the same. Thereafter, notice u/s. 142(1) was issued seeking the details of the property sold for a sum of Rs. 65,80,000/-. The assessee also submitted their reply and also furnished various records in support of the said submissions. The assessee also submitted that the immovable property of land was sold on 01/03/2018.. jointly along with the other family members and the share received by the assessee is only Rs. 65,80,000/-. The assessee also submitted that he has claimed exemption u/s. 54F of the Act on a sum of Rs. 54,31,608/- on the value of the construction he was made. The assessee also furnished the copy of the purchase deed of the land as well as the valuation report given by the valuer about the cost of construction of the building. The assessee also furnished the computation of long term capital gain. The AO had considered the said submissions and based on the date of the valuation report, he has concluded that the valuation of the house was made on the present date whereas the assessee had contended that the property was constructed within the period prescribed under the Statute. The AO further alleged that the assessee had shown the purchase of site and not submitted any documentary evidence in respect of construction of new house and therefore the AO had denied the claim of exemption u/s. 54F of the Act. The assessee also filed his reply to the show cause notice issued by the AO and the AO not accepting the said reply had computed the long term capital gain at Rs. 54,56,580/-. As against the said assessment order, the assessee filed an appeal before the Ld.CIT(A) and contended that the assessee is entitled for the benefit u/s. 54F of the Act since the sale proceeds were utilized for constructing a new house. The assessee also submitted that the various documents furnished before the AO would establishes the fact that the assessee had complied with the provisions and eligible for exemption u/s. 54F of the Act. The Ld.CIT(A) had considered the issue in detail and accepted that the sale proceeds were utilized to purchase the vacant land and thereby granted the relief on the value of the vacant land purchased by the assessee whereas confirmed the disallowance on the value of the house constructed by the assessee.

3. As against the said order, the assessee is in appeal before this Tribunal.

4. At the time of hearing, the Ld.AR submitted that the AO had erred in rejecting the return of income filed on the ground that the same was not e-verified in spite of the fact that the assessment has been completed based on the details furnished in the said return of income. The Ld.AR also submitted that the notice issued u/s. 148 is not a valid notice since the approval has been obtained from the PCIT instead of the PCCIT as prescribed in section 151(ii) of the Act. The Ld.AR also submitted that even the order made u/s. 148A(d) is also not a valid one since the approval was not obtained from the competent person. The Ld.AR further submitted that there is no separate approval from the competent person while issuing the notice u/s. 148A(b) of the Act as well as while passing the order u/s. 148A(d) of the Act since both the notice as well as the order refers to the same approval number 100000029781521 obtained from the PCIT. The Ld.AR also submitted that even the notice issued u/s. 148 also have the very same approval reference number and therefore, the entire proceedings are illegal and against the provisions of the Act. The Ld.AR also filed a paper book and enclosed 12 documents in which 9 documents were already filed before the Ld.CIT(A). The Ld.AR filed three documents as additional evidence in support of his case on merits, to show that the building has been constructed within a period of three years from the date of sale of the immovable property. The assessee also filed the written submissions and raised the legal grounds by way of additional grounds. The Ld.AR also relied on the orders of the Coordinate Bench of this tribunal in ITA No. 2305/Bang/2024. dated 30/04/2025 and ITA No. 1064/Bang/2025 dated 03/09/2025 in support of his legal grounds and prayed to allow the appeal filed by the assessee.

5. The Ld.DR submitted that the assessee had raised the legal plea before this Tribunal for the first time and therefore the same are not maintainable. The Ld.DR further submitted that the assessee had not furnished any documents in support of his contention that the new residential house has been constructed within a period of 3 years and also not deposited sale proceeds into the capital gain account and therefore the authorities below had correctly disallowed the claim of deduction in respect of the property newly constructed and therefore prayed to dismiss the appeal.

6. We have heard the arguments of both sides and perused the materials available on record.

7. Before proceeding the issue on merits, we are dealing with the legal grounds raised by the assessee. We are also satisfied that the legal grounds can be raised at any point of time and therefore, we are dealing with the said legal grounds at the initial stage.

8. In the present case, the A.Y. relates to 2018-19 and therefore the provision available at that point of time has to be considered for deciding the legal issues. During the relevant year, section 151 deals with the specified authority for granting approval to issue notices u/s. 148 and 148A of the Act. The specified authority has been prescribed as the Principal Commissioner if the notice has been issued within or below three years from the end of the assessment year. Similarly, the specified authority has been prescribed as Principal Chief Commissioner if the notice has been issued after more than three years from the end of the assessment year. We have also perused the order issued u/s. 148A(d) of the Act. The said order has been dated as 07/04/2022 and therefore the said order has been passed after three years from the end of the assessment year. In such circumstances, section 151 mandates that the proper authority for granting the approval is the Principal Chief Commissioner of Income Tax and not the Principal Commissioner of Income Tax. In the present case, we notice that the order u/s. 148A(d) of the Act has been passed after getting the approval from the Principal Commissioner of Income Tax, Bengaluru vide reference number 100000029781521.

9. We have also perused the notice issued u/s. 148 of the Act which is dated 12/04/2022 and therefore admittedly the said notice was issued after a period of three years from the end of the assessment year. The said notice was issued after getting the approval from the Principal Commissioner of Income Tax, Bengaluru vide reference number 100000029781521. The AO instead of getting approval from the PCCIT, had got the approval from the PCIT in spite of the fact that the time limit of three years has been exceeded. Therefore, the approvals are obtained, for issuing an order u/s. 148A(d) and notice u/s. 148, from the authorities not competent to grant such approvals and therefore, the order issued u/s. 148A(d) as well as the notice issued u/s. 148 are not bad in law and therefore liable to be set aside.

10. We have also considered the another legal submission made by the assessee that the AO instead of getting separate approval while passing the order u/s. 148A(d) of the Act as well as while issuing notice u/s. 148, had relied on the single approval granted by the PCIT which was evidenced from the reference number mentioned in both the proceedings and therefore the AO had also miserably failed to comply with the mandate given in section 148A(d) and 148 of the Act and therefore both the proceedings are not sustainable in the eye of law.

11. Considering the above said two legal grounds raised by the assessee, we are satisfied that the assessee had made out a case that the order passed u/s. 148A(d) as well as notice issued u/s. 148 are not validly initiated and therefore the assessment made pursuant to the said proceedings are not sustainable.

12. We have also considered the two orders of the Coordinate Bench of this Tribunal wherein a similar plea was considered and held that the approval obtained from the authorities who are not competent to grant such approval are bad in law and therefore the consequent proceedings made u/s. 147 of the Act are not sustainable. The Coordinate Bench of this Tribunal had arrived the conclusion that the approval was not obtained from the authority mentioned in section 151(ii) of the Act and therefore the entire proceedings are ab-void-initio and on that basis, set aside the reassessment proceedings made u/s. 147 of the Act.

13. Considering the present facts of the case as well as considering the principles laid down by the Coordinate Bench of this Tribunal, we are inclined to accept the legal grounds raised by the assessee and on that basis, we are allowing the appeal filed by the assessee. Since the appeal was decided on the legal grounds, we are not adjudicating the grounds on merits with a liberty to raise the same at the appropriate time, if necessary.

14. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 04th August, 2026.

Sd/-	**Sd/-**
BALAKRISHNAN S	**SOUNDARARAJAN K.**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Bangalore
Dated: 04th August, 2026.

Copy to:

1	**Shri Chandra S Sabhapathi,** **No. 143, Shashichandra Nilaya,** **1st cross, KSRTC Layout, Near Kashipura,** **Vinobanagar,,** **Shivamogga-577204,** **Karnataka.**
2	**Income Tax Officer,** **Ward-1,** **Shivamogga,** **Karnataka.**
3	The PCIT / CIT,
4	The D.R., ITAT, Bangalore Bench

BY ORDER

ASSISTANT REGISTRAR,
I.T.A.T., BANGALORE.