

Communiqué

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High Court Rulings

Where reassessment proceedings were initiated in name of Starlight LLP and during pendency, it converted into a private limited company and amalgamated into assessee-company, passing order u/s 148A(d) and issuing notice u/s 148 in name of Starlight LLP which was a non-existent entity was not valid.

Facts

The brief facts of the case are that Starlight LLP filed its return for AY 2018-19 which was processed u/s 143(1). Thereafter, Starlight LLP's case was selected for scrutiny, and an assessment Order was passed u/s 143(3) r.w.s. 144B making certain additions. Subsequently, there was a re-assessment-initiated u/s 148 in the name of Starlight LLP. However, while the re-assessment proceedings were ongoing, Starlight LLP was converted into a Private Limited Company (incorporated on 29th April 2022) and a fresh Incorporation Certificate was issued to that effect in the name of 'Starlight Systems (I) Pvt. Ltd.' Subsequent thereto, a Company Petition was filed in the NCLT for amalgamation of Starlight Systems (I) Pvt. Ltd. into the Petitioner - Company. In pursuance thereof, the Petitioner claims that it informed the respective Jurisdictional Officers about the proposed scheme of amalgamation and called upon them to file their representations before the NCLT. In the meantime, the re-assessment proceedings in relation to Starlight LLP culminated in an assessment Order passed u/s 147 r.w.s. 144B making additions in the hands of Starlight LLP. Thereafter, the NCLT vide an Order dt. 29-07-24 approved the scheme of amalgamation between Starlight Systems(I) Pvt. Ltd. (amalgamating company) and the Petitioner (amalgamated company). Immediately thereafter, the Petitioner claims that it informed the Department about the approval of the amalgamation scheme by raising a request on the Income Tax Portal, which was accepted.

Despite this being the position, the Petitioner states that the Department issued yet another SCN u/s 148A(b) in the name of Starlight LLP seeking to re-open their case which was challenged on merits. Consequently, the Order dated came to be passed concluding that income chargeable to tax had escaped. At the outset, Mr. Walve, the Id. counsel appearing on behalf of the Petitioner, states the primary ground of challenge is that the notice issued u/s 148 is invalid as it has been issued to a non-existent entity and this is squarely covered by the decision of the Hon'ble SC in PCIT vs Maruti Suzuki India Ltd. vide [2019] 107 taxmann.com 375 (SC) and this Courts judgment in J M Mhatre Infra (P.) Ltd. v. Union of India [2026] 182 taxmann.com 275 (Bombay).



Ruling

HC stated that even after approval of the scheme, the Petitioner had taken steps and made a request on the Income Tax Portal to that effect, therefore, it is not a case where the ITD was not aware of the amalgamation of the entity. Thus, we find force in the submissions advanced on behalf of the Petitioner that the notice u/s 148, issued in the name of the erstwhile entity viz. Starlight Systems (I) LLP (Exhibit P-I) cannot stand. This has now been consistently held not only by the Hon'ble SC in the case of Pr. CIT v. Maruti Suzuki India Ltd. [2019] 107 taxmann.com 375 (SC), but several other decisions of this Court. The reliance placed by the Revenue on Sky Light is misconceived as the facts of that case were peculiar in nature. This has also been observed by the Hon'ble SC while dismissing the SLP in the said case. In view of the above discussion, ITAT hereby quash and set aside the Order passed u/s 148A(d) and all consequential orders /notices emanating therefrom.

Source : High Court, Bombay in Sunteck Realty Ltd. vs DCIT vide [2026] 184 taxmann.com 9 (Bombay) on February 06, 2026



ITAT Rulings

Where entire sale consideration was invested in residential house within prescribed period, deduction u/s 54F was allowable despite partial deposit in CGAS.

Facts

The assessee is an individual and has furnished his return declaring an income of INR 17.19 lacs. The case was selected for scrutiny and subsequently, notices were issued to the assessee. The AO found that the assessee sold an immovable property, being a plot of land for INR 3.21 crores on 14-03-14 and purchased a flat INR 4 crores on 25-02-15 and claimed deduction u/s 54F. However, the assessee failed to deposit whole of the consideration into specified CGAS before furnishing return of income and only deposited INR 2.25 crores in the specified bank account. Therefore, the AO calculated CG of INR 3.16 crores and accordingly taxed INR 91.45 lacs being balance of CG not deposited in specified bank account before furnishing the return and the assessment was accordingly completed u/s 143(3). Being aggrieved with the assessment order, the assessee preferred an appeal before Ld. CIT(A). After considering the reply and submissions of the assessee, Ld. CIT(A) dismissed the appeal filed by the assessee and confirmed the order passed by the AO. It is the above order against which the assessee is in appeal before this Tribunal.



Ruling

ITAT following the above decision passed by Hon'ble Karnataka High Court in the case of K. Ramchandra Rao, we are of the considered opinion that the real intention of the legislature is to get the amount of sale consideration invested in purchase of residential house within the prescribed period and not to get the amount deposited in capital gain accounts scheme. Admittedly, in the instant case the whole of the sale consideration was invested by the assessee in purchasing of residential house within a period of one year from the date of sale of original asset therefore in the light of above judgement, the assessee is entitled to get deduction u/s 54F. Accordingly, in view of above discussion, ITAT set-aside the order passed by Ld. CIT(A) and directed the AO to allow the deduction of INR 91.45 lacs claimed by the assessee. The appeal was accordingly allowed.

Source : ITAT, Pune in Satishchandra Jagdishchandra Gugale vs ITO vide [2026] 183 taxmann.com 646 (Pune- Trib.) on February 19, 2026.

Where assessment u/s 153A alleging unaccounted cash from property sale was based on third-party search material, and no incriminating document relating to assessee was found or reflected in her panchnama, such assessment was liable to be set aside.

Facts

This appeal and Cross Objection preferred by the Revenue and the assessee against the order of the Ld. CIT(A)-29, arising out of the assessment order u/s 153A r.w.s 143(3). At the time of hearing Id. Counsel has pointed out that in the Cross Objection assessee has taken ground that assessment order passed u/s 153A while the impugned assessment order is based on material seized during search action initiated in case of some third party and not in case of assessee, therefore, the assessment order initiated. Ld. DR has, however, relied on the impugned order of assessment and has submitted that this ground has not been raised at proper stage before Id. tax authorities below. At the same time Id. Counsel has submitted that the approval granted u/s 153D is mechanical for which also ground in cross objection has been raised which too has been defended by Id. DR by submitting that the approval is an administrative act and otherwise during assessment the AO apprised the senior officers of all the questionnaire raised and incriminating material.

Source : ITAT, Delhi in ACIT vs Neena Jain vide [2026] 183 taxmann.com 663 (Delhi - Trib.) on February 20, 2026.



Ruling

ITAT stated that there is no detail as to which premises of the assessee were searched in the assessment order. No evidence is on record from the department to show that there was no search warrant in the name of assessee which was executed on 06-02-19 in which any incriminating evidence was seized which have been relied by the AO to impute receipt of cash component on the sale of property. At the same time, Id. CIT(A) has reproduced the Warrant of Authorization and Panchnama which show that search action was effected on third party namely Avtar Singh Kochar, Gagandeep Singh Kochar, Hari Singh Kochar & M/s H.L. Forex Pvt. Ltd. The panchnama prepared in the name of assessee does not reflect any incriminating material qua the alleged property transaction but mentions of jewellery items only. Thus, finding recorded by the Ld. CIT(A) requires no interference. On the aforesaid facts and circumstances when ITAT examined the issue of approval, it was found that the competent authority granted approval on 22-04-21 based on AOs letter. Though AO had mentioned that the draft assessment orders that have been amended are being approved and that after detailed discussion with AO and based on facts mentioned in the appraisal report and after considering relevant seized documents the draft assessment orders are being approved. However, to ITAT, it appears that the approving authority has not applied its mind at all to the facts and circumstances of the case to have escaped even such a fundamental aspect. The reassessment was framed u/s 153A in the hands of assessee based on document not seized from the premises of assessee. Thus, ITAT finds no error in the finding of Id. CIT(A) the ground raised by the department have no substance, at the same time Cross Objection raised by the assessee deserves to be sustained.

Where assessee purchased an old, poorly maintained flat at consideration lower than SDV and explained reasons for lower valuation, since assessee disputed SDV and conditions prescribed u/s 50C(2) were fulfilled, AO erred in not referring valuation to DVO, requiring de novo adjudication after obtaining valuation report.

Facts

The assessee is an individual and for the year under consideration filed his return of income declaring a total income of INR 4.25 lacs from salary. The assessee was selected for scrutiny during which, it was observed that during the year, the assessee purchased a property located at 517, 5th floor, New Samta CHSL, MMRDA Colony, Station Road, West Mumbai, for total consideration of INR 24 lacs. However, as per the information filed by the Sub-Registrar Office, the SDV has determined the market value at INR 33.33 lacs. As the market value determined by the stamp duty authority was higher than the purchase consideration, the assessee was asked to show cause as to why the difference, i.e. of INR 9.33 lacs should not be added to the assessee u/s 56(2)(x)(b). In response, the assessee submitted that he purchased the flat in the building which was redeveloped/ developed by MMRDA for the persons whose houses were cut down by the road and the persons were allocated the property. It was further submitted that the building was constructed in the year 2003, and occupation was given in the year 2005. It was submitted that in the year of purchase of the flat by the assessee, i.e. 2017, the building was 12 to 14 years old, and it was not a newly constructed building. The assessee also submitted that the market value of the flat purchased by him is a maximum of INR 24 lacs only, as the building is 12 to 14 years old and not well-maintained. Furthermore, the families staying there are poor compared to average class, who cannot maintain the building in good condition.

The AO passed an order u/s 143(3) r.w.s. 143(3A) and 143(3B) disagreeing with the submissions of the assessee and made an addition of INR 9.33 lacs, being the difference between the purchase consideration and the market value determined by the Stamp Valuation Authority u/s 56(2)(x)(b). The Id. CIT(A) also dismissed the appeal filed by the assessee against which the assessee is in appeal before the Tribunal.



Ruling

ITAT find that in the present case, it cannot be disputed that the value adopted by the SV Authority exceeds the value of the residential flat purchased by the assessee on the date of transfer, and the value so adopted is also not in dispute in any appeal, revision or reference before any Authority, Court or High Court. Thus, both the conditions of section 50C(2) are fulfilled in the present case. Accordingly, ITAT is of the considered view that the AO erred in not referring to the valuation of the residential flat to the DVO. Further, the impugned order also suffers from the same vice, as despite recording submission of the assessee in this regard, no reference was made to the DVO for the valuation as per the provision. Accordingly, in view of the facts and circumstances as noted above, ITAT deem it appropriate to restore this issue to the file of the jurisdiction AO for de novo adjudication after seeking a valuation report from the DVO as per the provisions of the Act.

Source : ITAT, Mumbai in *Naynish Harishchandra Rahane vs Income-tax Officer vide [2026] 184 taxmann.com 66 (Mumbai - Trib.) on February 27, 2026*

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