

4. I first take up the issue of re-opening of assessment.

The reasons for re-opening of assessment reads as follows:-

*"Escapement of income of Rs.1,75,713/- for the Assessment Year 2007-08, on account of purchase of jewellery."*

A perusal of these reasons demonstrate that the, Assessing Officer is not clear as to whether any information or material was received based on which he has come to a conclusion that the purchases in question are bogus purchases. A perusal of the assessment order reveals that the information was received from the office of the DGIT-Inv., Mumbai, on 28<sup>th</sup> March, 2014 and on the same day, the reasons for re-opening were recorded. The JCIT, Range-41, Kolkata, approved the re-opening of the assessment on the same day by recording satisfaction.

5. I find that there is non-application of mind by the Assessing Officer to the information received. On receipt of certain information from the Office of the DGIT-Inv., without verification or any application of mind the reasons were recorded u/s 148 of the Act stating that income subject to tax has escaped assessment and notice u/s 148 of the Act was issued after obtaining approval of the JCIT. Such re-opening, in our opinion, is bad in law.

5.1. The co-ordinate bench of this Tribunal in *ITA No. 660/Kol/2011 for AY 2002-03 in the case of DCIT Vs. Great Wall Marketing (P) Ltd.* vide order dated 03.02.2016 has held as under:

*"8. We have heard the submissions of the learned counsel for the assessee both on the validity of initiation of re-assessment proceedings as well as the merits of the appeal. None appeared on behalf of the department.*

*8.1. We have considered the submissions of the learned counsel for the assessee. As far as the validity of initiation of re-assessment proceedings are concerned the reasons recorded by the AO for initiating proceedings u/s 148 are as follows :-*

*"No.DCIT/Cir-6/reasons for reopening/09-10 Dated 22/04/2009 To The Principal Officer Greatwall Marketing (P) Ltd.  
 c/o Sri. S.M. Daga 11, Clive Row, Room No. 2 .z-. Fir.  
 Kolkata- 700001.*

*Insecticides (India) Ltd (supra) has taken a view that the reasons recorded were vague and uncertain and cannot be construed as satisfaction on the basis of the relevant material on the basis of which a reasonable person can form a belief that income has escaped assessment. The Hon'ble Delhi High Court has also come to the conclusion that the reasons recorded did not disclose the AO's mind regarding escapement of income. The Hon'ble Delhi High Court ultimately held that initiation of proceedings u/s 148 of the Act was not valid and justified in the eyes of law. The facts and circumstances in the present case are identical to the case decided by the Hon'ble Delhi High Court. Following the said decision we hold that initiation of re- assessment proceedings is not valid. On this ground, the assessment is liable to be annulled."*

6. Applying the propositions of law laid down in the above case-law to the facts of this case I hold that the re-opening is bad in law as the Assessing Officer has not independently applied his mind to the material and as recorded reasons are vague and as the reasons recorded are based on borrowed satisfaction. The re-opening of assessment is quashed as bad in law. Hence this ground of the assessee is allowed. As the contentions of the assessee on re-opening of assessments is upheld, we do not go into the merits of the case as it would be merely an academic exercise.

7. In the result, appeal of the assessee is allowed.

***Kolkata, the 2<sup>nd</sup> day of November, 2018.***

Sd/-  
**[J. Sudhakar Reddy]**  
Accountant Member

Dated : 02.11.2018  
{SC SPS}