IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 4624/Del/2014

Assessment Year: 2007-08

RAJENDRA AGRAWAL, 56, FF, NRI COLONY, MANDAKINI, GREATER KAILASH-IV, NEW DELHI – 110 048 (PAN: COWPS6505Q)	vs.	ITO, WARD-23(2), NEW DELHI
(ASSESSEE)		**(RESPONDENT**

Assessee by	:	Shri Raj Kumar, CA & Sh. Sumit Goel, CA
Revenue by	:	Shri Pradeep Singh Gautam, Sr. DR.

ORDER

The Assessee has filed this appeal against the impugned order dated 26.5.2014 passed by the Ld. CIT(A)-XI, New Delhi on the following grounds:-

1. *That the order of the Ld. CIT(A) is against law and facts.*
2. *That the Ld. CIT(A) erred in conforming the addition of Rs. 1035000/- made by the AO on account of cash deposit in the bank account, by ignoring all the submissions and documents filed by the appellant.*
3. *That the Ld. CIT(A) erred in enhancing the addition by 1224000 on account of cash deposit in the bank account of the appellant.*
4. *That the AO erred in issuing the notice u/s. 148 of the Act to the appellant, although there was no reason to believe for him to issue notice to the appellant and thus the notice issued is without jurisdiction.*
5. *That the AO never supplied the copy of reason recorded u/s. 148 of the Act to the appellant, which is in clear violation of provisions of law and of various judicial pronouncements.*
6. *That the Ld. CIT(A) erred in not following the proper procedure in enhancing the addition of the appellant.*
7. *That the appellant craves leave to add or alter any of the grounds of appeal.*

2. Later on, the assessee has filed the following additional grounds:-

"Gr. No. 4 of Form 36 (Additional Ground No. 1)

That the AO erred in issuing the notice u/s. 148 of the Act to the appellant, although there was no reason to believe for him to issue notice to the appellant and thus the notice issued is without jusridcition.

Additional Ground No. 2

That the approval of the Additional CIT u/s. 151 of the I.T. Act is not as per law and not competent so as to provide a legally valid jurisdiction to AO to initiate the re-assessment proceedings, more so the approval / satisfaction is mechanical, without application of mind and in stereo typed manner."

3. At the time of hearing, Ld. Counsel for the assessee only argued the additional ground no. 2 and stated that the additional ground raised is pure legal issue which goes to the root of the matter and all facts and material required for this ground already available on record and therefore, the same needs to be admitted, in view of the Hon'ble Supreme Court decision in the case of NTPC 229 ITR 383 (SC). He further drew my attention towards Page No. 1 at Assessee's Paper Book which is a copy of reasons recorded by the AO and approval granted by the Addl. CIT, Range-23, New Delhi wherein the AO has erred in assumption of jurisdiction u/s. 147/148 of the Act on the basis of invalid and mechanical approval granted by the Addl. CIT, Range-23, New Delhi as *"ON THE BASIS OF 'A' ABOVE, I AM SATISFIED",* which shows that Ld. Addl. CIT has not recorded proper satisfaction and without application of mind gave the approval in a mechanical manner. He further stated that this legal/jurisdictional ground is squarely covered by the decision of the ITAT, SMC, Bench, New Delhi dated 21.8.2019 in the case of Gopal Chand Manudhra and Sons; Damyanti Mundhra; Ramdev Mundhra; Shriya Devi Mundhra and Gopal Chand Mundhra vs. ITO, Wards 55(5), New Delhi decided in ITA No. 1375; 1721; 1722; 1523-1524/Del/2019 respectively relevant to assessment year 2011-12 and therefore, he requested that the same ratio may be followed in

the present case and appeal of the assessee may be allowed accordingly by quashing the reassessment proceedings.

4. On the contrary, Ld. DR stated that since this additional ground was not taken before the Ld. CIT(A), hence, the same may not be admitted and appeal of the assessee may be dismissed. He further relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records, especially the Additional grounds filed by the assessee and the case laws supporting the case for admission of additional grounds on which the Ld. Sr. DR relied upon for not admitting the additional grounds. In my considered view, the additional grounds are in legal and jurisdictional nature and needs to be admitted in the interest of justice. Hence, I admit the same and only deciding the additional ground no. 2 as argued by the ld. Counsel for the assessee. For the sake of convenience, the additional ground no. 2 is again reproduced as under:-

> *Additional Ground No. 2*
>
> *That the approval of the Additional CIT u/s. 151 of the I.T. Act is not as per law and not competent so as to provide a legally valid jurisdiction to AO to initiate the re-assessment proceedings, more so the approval / satisfaction is mechanical, without application of mind and in stereo typed manner."*

5.1 I have also perused the page no. 1 placed in Paper Book which is a copy of RECORDING THE REASONS FOR INITIATING PROCEEDINGS U/S. 147 AND FOR OBTAINING THE APPROVAL OF THE Addl. Commissioner of Income Tax, Range-23, New Delhi wherein, the Ld. Addl. Commissioner of Income Tax, Range-23, New Delhi while granting approval for issue of notice u/s. 148 of the Act has only mentioned that "*ON THE BASIS OF 'A' ABOVE, I AM SATISFIED"*,, which establish that the approving authority has given approval to the reopening of assessment in a mechanical manner without due application of mind and therefore, on this account the reassessment is not sustainable in the eyes of law and needs to be quashed.

5.2 I have also perused the decision referred by the Ld. Counsel for the assessee of the ITAT, SMC, Bench, New Delhi dated 21.8.2019 in the case of Gopal Chand Manudhra and Sons; Damyanti Mundhra; Ramdev Mundhra; Shriya Devi Mundhra and Gopal Chand Mundhra vs. ITO, Wards 55(5), New Delhi decided in ITA No. 1375; 1721; 1722; 1523-1524/Del/2019 respectively relevant to assessment year 2011-12 wherein, the similar and identical legal/ jurisdictional issue has been adjudicated and decided in favour of the assessee. For the sake of convenience, the relevant portion of the findings of the Tribunal in the aforesaid case are reproduced as under:-

> *"18. I have considered the rival arguments made by both the sides and perused the orders of the Assessing Officer and CIT(A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me. I find the case of the assessee was reopened u/s 147 by recording the reasons and after obtaining approval from the JCIT and the PCIT on the basis of the information received from the Investigation Wing of the Department that the assessee is a beneficiary of accommodation entry of bogus long-term capital gain. The reasons so recorded by the Assessing Officer has already been reproduced in the preceding paragraphs and, therefore, the same is not being reproduced here to avoid repetition. However, a perusal of the column No.12 and 13 of the form for recording the reasons for initiating the proceedings u/s 147 and for obtaining the approval of the Addl./Joint CIT, copy of which is placed at page 40 of the paper book, reveals that the JCIT while giving his approval has mentioned as under:-*
>
> ***"Recommended for approval u/s 147 of the Act."***

19. Similarly, the Pr. CIT, while giving his approval has mentioned as under:-

"Yes. I am satisfied."

20. I find the coordinate Bench of the Tribunal in the case of M/s Virat Credit & Holdings Pvt. Ltd. (supra) while deciding an identical issue has quashed the reassessment proceedings where the approving authorities while giving approval has simply mentioned "Yes. I am satisfied." The relevant observations of the Tribunal from para 10 onwards read as under:-

> *"10. First of all, ld. AR for the assessee company drew our attention towards sanction accorded by the Addl.CIT for reopening of the assessment obtained by moving an application under Right to Information Act, 2005, available on file as Annexure 'A'. Perusal of the sanction accorded by Addl. CIT in the prescribed proforma shows that there is a question no.13 viz. :*
>
> > *"13. Whether the Addl. CIT is satisfied on the reasons recorded under section 147 that it is a fit case for issue of notice under section 148 of the IT Act.*
>
> *11. In response to aforesaid question no.13 in the prescribed proforma, Addl. CIT has written "Yes. I am satisfied." No doubt, columns of reasons recorded was there and it*

is also mentioned in column no.12 that reasons for belief that income has escaped assessment are as per annexure enclosed but such annexure has not been produced before the Bench for perusal.

12. Apparently, from the approval recorded and words used that "Yes. I am satisfied.", it has proved on record that the sanction is merely mechanical and Addl.CIT has not applied independent mind while according sanction as there is not an iota of material on record as to what documents he had perused and what were the reasons for his being satisfied to accord the sanction to initiate the reopening of assessment u/s 148 of the Act.

13. Even AO while recording the reasons for initiating the reopening of assessment has not applied his mind independently. When we peruse the reasons recorded, available at pages 31-32 of the paper book, the entire reasons have been based on the statement of one Shri P.K. Jindal, who has furnished the list of companies stated to be not doing any business activities but engaged in providing accommodation entries. Before issuing the notice AO appeared to have not examined the profile of the said companies to arrive at a logical conclusion so as to issue the notice u/s 148 of the Act. When this fact is examined in the light of the completed assessment of the

assessee u/s 143 (3), all the documents concerning share application money, now available at pages 1 to 30 of the paper book, were supplied to the AO. This fact has not been taken into consideration by the AO before initiating the proceedings u/s 147/148 of the Act. However, since reopening of assessment in this case is otherwise not sustainable, we are not entering into any merits.

14. Hon'ble Supreme Court in case cited as CIT vs. S. Goyanka Lime & Chemical Ltd. - (2015) 64 taxmann.com 313 (SC) examined the identical issue as to according the sanction for reopening the assessment u/s 148 of the Act by merely recording "Yes. I am satisfied." And held that reopening on the basis of mechanical sanction is invalid by returning following findings :-

> *" Section 151, read with section 148 of the Income-tax Act, 1961 - Income escaping assessment - Sanction for issue of notice (Recording of satisfaction) - High Court by impugned order held that where Joint Commissioner recorded satisfaction in mechanical manner and without application of mind to accord sanction for issuing notice under. section 148, reopening of*

assessment was invalid - Whether Special Leave Petition filed against impugned order was to be dismissed - Held, yes [In favour of assessee] Search and Seizure-Procedure for black Assessment- Search was conducted at residential and business premises of Assessee and notice for block assessment u/s. 158-BC was issued- For block period, returns were filed that were processed u/s. 143 (1)- However, notice u/s. 148 was issued by AO, on basis of certain reasons recorded-Assessee objected to same before AO, that was rejected and assessment was completed u/ss. 143(3) and CO No.57/Del/2012 147- CIT(A) found that reason recorded by Joint Commissioner of Income Tax, for according sanction, was merely recording 'I am Satisfied'- Action for sanction was alleged to be without application of mind and to be done in mechanical manner-Held, while according sanction, Joint Commissioner, Income Tax only recorded "Yes, I am satisfied"- Mechanical way of recording satisfaction by Joint Commissioner, that accorded sanction for issuing notice u/s. 147, was clearly

unsustainable-On such consideration, both Appellate authorities interfered into matter-No error was committed warranting reconsideration-As far as explanation to S. 151, brought into force by Finance Act, 2008 was concerned, same only pertained to issuance of notice and not with regard to manner of recording satisfaction-Amended provision did not help Revenue-No question of law involved in matter, that warranted reconsideration-Revenue's Appeals dismissed."

15. The Hon'ble Delhi High Court has also decided this legal issue in case cited as Pr. CIT vs. N.C. Cables Ltd. in ITA 335/2015 order dated 11.01.2017 by returning following findings :-

" Reassessment-Issuance of Notice-Sanction for issue of Notice-Assessee had in its return for A Y 2001-02 claimed that sum of Rs. 1 Crore was received towards share application amounts and a further sum of Thirty Five Lakhs was credited to it as an advance towards loan-Original assessment was completed u/s 143(3)-However,

pursuant to reassessment notice, which was dropped due to technical reasons, and later notice was issued and assessments were taken up afresh-After considering submissions of assessee and documents produced in reassessment proceedings, AO added back a sum of Rs.1,35,00,000-CIT(A) held against assessee on legality of reassessment notice but allowed assessee's appeal on merits holding that AO did not conduct appropriate enquiry to conclude that share inclusion and advances received were from bogus entities-Tribunal allowed assessee's appeal on merits-Revenue appealed against appellate order on merits-Assessee's cross appeal was on correctness of reopening of assessment- Tribunal upheld assessee's cross-objections and dismissed Revenue's appeal holding that there was no proper application of mind by concerned sanctioning authority u/s Section 151 as a pre- condition for issuing notice u/s 147/148-Held, Section 151 stipulates that CIT (A), who was competent authority to authorize reassessment notice, had to apply his mind and form opinion- Mere

appending of expression 'approved' says nothing-It was not as if CIT (A) had to record elaborate reasons for agreeing with noting put up-At same time, satisfaction had to be recorded of given case which could be reflected in briefest possible manner- In present case, exercise appears to have been ritualistic and formal rather than meaningful, which was rationale for safeguard of approval by higher ranking officer- Revenue's appeal dismissed."

16. Furthermore, perusal of the noting sheet dated 09.03.2010 to 30.12.2010 made available to the Bench for perusal shows that only AO has recorded that Addl.CIT has considered the reasons recorded before according the sanction, however even no prima facie material is there, if Addl.CIT has applied his mind by considering the reasons recorded before according the sanction. We are of the considered view that the AO who has recorded the reasons cannot enter into the mind of the sanctioning authority (Addl.CIT) discharging the quasi-judicial function for according valid sanction for reopening the assessment.

17. Moreover, according sanction is not a supervisory role rather it is a quasi-judicial

function to be performed by the Addl.CIT as required u/s 151 of the Act. When the Revenue Department is manned by highly qualified officers they are to evolve legally sustainable standard operating procedure for discharging quasi- judicial function.

16. Hon'ble High Court of Delhi in case cited as SABH Infrastructure Ltd. vs. ACIT in WP (C) 1357/2016 order dated 25.09.2017 has issued guidelines to the Revenue authorities while deciding the issue of reopening u/s 147/148 of the Act. Operative part of which is reproduced as under:-

> *"19. Before parting with the case, the Court would like to observe that on a routine basis, a large number of writ petitions are filed challenging the reopening of assessments by the Revenue under Sections 147 and 148 of the Act and despite numerous judgments on this issue, the same errors are repeated by the concerned Revenue authorities. In this background, the Court would like the Revenue to adhere to the following guidelines in matters of reopening of assessments:*
>
> *(i) while communicating the reasons for reopening the assessment, the*

copy of the standard form used by the AO for obtaining the approval of the Superior Officer should itself be provided to the Assessee. This would contain the comment or endorsement of the Superior Officer with his name, designation and date. In other words, merely stating the reasons in a letter addressed by the AO to the Assessee is to be avoided;

(ii) the reasons to believe ought to spell out all the reasons and grounds available with the AO for re- opening the assessment - especially in those cases where the first proviso to Section 147 is attracted. The reasons to believe ought to also paraphrase any investigation report which may form the basis of the reasons and any enquiry conducted by the AO on the same and if so, the conclusions thereof;

(iii) where the reasons make a reference to another document, whether as a letter or report, such document and/ or relevant portions of such report should be enclosed along with the reasons;

(iv) the exercise of considering the Assessee's objections to the reopening of assessment is not a mechanical ritual. It is a quasi-judicial function. The order disposing of the objections should deal with each objection and give proper reasons for the conclusion. No attempt should be made to add to the reasons for reopening of the assessment beyond what has already been disclosed."

17. In view of what has been discussed above, reassessment opened by the AO in this case is not sustainable in the eyes of law, hence hereby quashed. Consequently, cross objection filed by the assessee company stands allowed and the appeal filed by the Revenue has become infructuous.

21. I find the Tribunal in the case of Raghav Technology Pvt. Ltd. (supra) while deciding an identical issue has also quashed the reassessment proceedings under similar circumstances by observing as under:-

"8. I have considered the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that the case of the assessee was reopened by the Assessing Officer after

recording reasons and issue of notice u/s 148 as per the provisions of section 147 and 148 of the Act on the basis of the information received from the Investigation Wing that the assessee is a beneficiary of accommodation entry obtained from Surendra Kumar Jain group of cases towards introduction of share capital of Rs.35 lacs. I find, the assessee has taken a specific ground before the CIT(A) challenging the validity of reassessment proceedings on the ground that approval u/s 151 of the Act of the superior authorities is not in accordance with law. The relevant ground of appeal No.2 taken before the CIT(A) reads as under:-

> *"2. That under the facts and circumstances, approval u/s 151 of the superior authorities is not accordance with law and otherwise also mechanical and without application of mind, making the re-asstt. Proceedings unsustainable in law."*

9. I find the above ground has been extracted by the CIT(A) in the body of the order. She has also mentioned at para 3.2 of the order that the assessee contended that there was no proper compliance of the provisions of section 151 of the IT Act, 1961. However, her finding on this issue is missing

in the entire order. A perusal of the approval given u/s 151, copy of which is placed at pages 20 and 21 of the paper book shows that the Pr. CIT while giving approval has simply mentioned as under:-

"Yes. I am satisfied."

10. I find, the Hon'ble Delhi High Court in the case of United Electrical Company Pvt. Ltd. (supra) while deciding an identical issue has held that the power vested in the commissioner u/s 151 to grant or not to grant approval to the Assessing Officer to reopen an assessment is coupled with a duty. The commissioner is required to apply his mind to the proposal put up to him for approval in the light of the material relied upon by the Assessing Officer. That power cannot be exercised casually and in a routine manner. Accordingly, the Hon'ble High Court quashed the notice, since there was no proper application of mind by the Addl.CIT.

11. I find the Hon'ble Delhi High Court in the case of Pr. CIT vs. N.C. Cables Ltd., while deciding an identical issue has held that section 151 of the Act clearly stipulates that the CIT, who is the competent authority to authorize the reassessment notice has to apply his mind and form an opinion. Mere appending of the expression 'approved' says

nothing. It is not as if the commissioner has to record elaborate reasons for agreeing with the noting put up before him. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. When such exercise appears to have been ritualistic and formal rather than meaningful which is the rationale for the safeguard of an approval by a higher ranking official, the finding of the Tribunal quashing the reassessment proceedings cannot be disturbed.

12. I find the Hon'ble Supreme Court in the case of Chhugamal Rajpal vs. S.P. Chaliha & Ors (supra) has held that where the commissioner had mechanically recorded permission and the important safeguards provided in the section 147 and 151 were lightly treated by the officer and the commissioner, the notice issued u/s 148 was held as invalid. The various other decisions relied on by the ld. counsel for the assessee in the paper book also support his case. Since, in the instant case, admittedly, the ld. PCIT while granting approval has simply mentioned 'Yes. I am satisfied' therefore, following the decisions of the jurisdictional High Court (cited supra) on this issue which are binding on the Tribunal, the reassessment proceedings are to be treated as not in accordance with the law since the approval has been given in a mechanical manner

without due application of mind by the approving authority. I, therefore, allow ground of appeal No.2 by the assessee challenging the validity of reassessment proceedings. Since the assessee succeeds on this legal ground, the various other grounds raised by the assessee are not being adjudicated being academic in nature."

22. Since, in the instant case, both the approving authorities have given approval in a mechanical manner without due application of mind, therefore, such reassessment proceedings have to be treated as not in accordance with law and has to be quashed.

23. Even otherwise also, a perusal of the reasons recorded show that the notice has been issued in a mechanical manner without independent application of mind by the Assessing Officer and the satisfaction by the Assessing Officer is based on borrowed satisfaction of the Investigation Wing. The Assessing Officer, without applying his mind, has simply, on the basis of the information of the Investigation Wing, jumped to the conclusion that there is escapement of income. The reasons so recorded do not show that there is any application of mind by the Assessing Officer for reaching the conclusion that there was escapement of income except the information from the Investigation Wing. The Hon'ble Delhi High Court in a number of decisions has held that reopening of assessment on the basis of report of the Investigation Wing without independent application of mind by the Assessing Officer is not in accordance with law and accordingly the reassessment proceedings have been quashed. The Hon'ble Delhi High

Court recently in the case of South Yarra Holdings vs. ITO, vide Writ Petition No.3398 of 2018, order dated 1st March, 2019, at para 7 of the order has observed as under:-

> *"7. It is a settled position in law that re-opening of an assessment has to be done by an Assessing Officer on his own satisfaction. It is not open to an Assessing Officer issue a reopening notice at the dictate and/or satisfaction of some other authority. Therefore, on receipt of any information which suggests escapement of income, the Assessing Officer must examine the information in the context of the facts of the case and only on satisfaction leading to a reasonable belief that income chargeable to tax has escaped assessment, that re-opening notice is to be issued."*

24. The Hon'ble High Court in the case of PCIT vs. Meenakshi Overseas Pvt. Ltd., vide ITA 692/2016, order dated 26th May, 2017, has observed as under:-

> *"19. A perusal of the reasons as recorded by the AO reveals that there are three parts to it. In the first part, the AO has reproduced the precise information he has received from the Investigation Wing of the Revenue. This information is in the form of details of the amount of credit received, the payer, the payee, their respective banks, and the cheque number. This information by itself cannot be said to be tangible material.*

20. Coming to the second part, this tells us what the AO did with the information so received. He says: "The information so received has been gone through." One would have expected him to point out what he found when he went through the information. In other words, what in such information led him to form the belief that income escaped assessment. But this is absent. He straightaway records the conclusion that "the abovesaid instruments are in the nature of accommodation entry which the Assessee had taken after paying unaccounted cash to the accommodation entry given (sic giver)". The AO adds that the said accommodation was "a known entry operator" the source being "the report of the Investigation Wing".

21. The third and last part contains the conclusion drawn by the AO that in view of these facts, "the alleged transaction is not the bonafide one. Therefore, I have reason to be believe that an income of Rs. 5,00,000 has escaped assessment in the AY 2004-05 due to the failure on the part of the Assessee to disclose fully and truly all material facts necessary for its assessment... "

22. As rightly pointed out by the ITAT, the 'reasons to believe' are not in fact reasons but only conclusions, one after the other. The expression 'accommodation entry' is used to

describe the information set out without explaining the basis for arriving at such a conclusion. The statement that the said entry was given to the Assessee on his paying "unaccounted cash" is another conclusion the basis for which is not disclosed. Who is the accommodation entry giver is not mentioned. How he can be said to be "a known entry operator" is even more mysterious. Clearly the source for all these conclusions, one after the other, is the Investigation report of the DIT. Nothing from that report is set out to enable the reader to appreciate how the conclusions flow therefrom.

23. Thus, the crucial link between the information made available to the AO and the formation of belief is absent. The reasons must be self evident, they must speak for themselves. The tangible material which forms the basis for the belief that income has escaped assessment must be evident from a reading of the reasons. The entire material need not be set out. However, something therein which is critical to the formation of the belief must be referred to. Otherwise the link goes missing.

24. The reopening of assessment under Section 147 is a potent power not to be lightly exercised. It certainly cannot be invoked casually or mechanically. The heart of

the provision is the formation of belief by the AO that income has escaped assessment. The reasons so recorded have to be based on some tangible material and that should be evident from reading the reasons. It cannot be supplied subsequently either during the proceedings when objections to the reopening are considered or even during the assessment proceedings that follow. This is the bare minimum mandatory requirement of the first part of Section 147 (1) of the Act."

25. I find the coordinate Bench of the Tribunal in the case of M/s SBS Realtors (P) Ltd. vs. ITO, vide ITA No.7791/Del/2018, order dated 1st April, 2019, has also quashed the reassessment proceedings based on the information provided by the Investigation Wing without any independent application of mind. It was held that there was no tangible material which formed the basis for the belief that income has escaped assessment. The various other decisions relied by the ld. counsel also supports his case. Since, in the instant case, the reopening of the assessment has been made on the basis of information received from the Investigation Wing and there is no independent application of mind by the Assessing Officer and such reopening is made on the basis of borrowed satisfaction, therefore, such reopening is not in accordance with law and ha to be quashed. Accordingly, such reassessment proceedings have to be treated as not in accordance with law and has to be quashed.

26. Since the assessee succeeds on this legal ground challenging the validity of reassessment proceedings, the addition on merit is not being adjudicated being academic in nature. The appeal filed by the assessee is accordingly allowed.

ITA Nos. 1375/Del/2019 (Gopal Chand Mundhra and Sons); 1721/Del/2019 (Damyanti Mundhra); 1722/Del/2019 (Ramdev Mundhra); 1524/Del/2019 (Gopal Chand Mundhra).

27. In these appeals also identical grounds have been taken by the respective assessees and in all these cases the approving authorities have given approval to the reopening of assessment in a mechanical manner without due application of mind. Therefore, following the reasons given in the preceding paragraphs, the reassessment proceedings initiated in the case of these assessees are also held to be not in accordance with the law and are accordingly quashed.

28. In the result, all the five appeals filed by the respective assesses are allowed."

5.3 Since in the present case the approving authority has given approval to the reopening of assessment in a mechanical manner without due application of mind by mentioning only that "*ON THE BASIS OF 'A' ABOVE, I AM SATISFIED",* in the Reasons for Initiating Proceedings u/s. 147 and For obtaining the Approval of the Addl. Commissioner of Income Tax, Range-23, New Delhi, a copy thereof is placed at page no. 1 of the Paper Book, and therefore, the legal issue in dispute is squarely covered by the aforesaid finding of the Tribunal, hence, respectfully following the aforesaid precedent i.e. ITAT, SMC, Bench, New Delhi decision dated 21.8.2019 in the case of Gopal Chand Manudhra and Sons; Damyanti Mundhra; Ramdev Mundhra; Shriya Devi Mundhra and Gopal

Chand Mundhra vs. ITO, Wards 55(5), New Delhi decided in ITA No. 1375; 1721; 1722; 1523-1524/Del/2019 respectively relevant to assessment year 2011-12, the reassessment is hereby quashed and accordingly the additional ground no. 2 is allowed. Since the assessee succeeds on this legal ground challenging the validity of reassessment proceedings, the addition on merit is not being adjudicated being academic in nature. The appeal filed by the assessee is accordingly allowed.

6. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on 02/12/2019.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date 02/12/2019
"SRB"
Copy forwarded to: -

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

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches