

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHE : SMC-I : NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 7307/Del/2018  
Assessment Year : 2010-11

QUANTUM HITECH  
MERCHANDISING P. LTD.  
H-67, ASHOK VIHAR, PHASE-I,  
NEW DELHI – 110 052  
(PAN: AAACQ0390C)  
(Appellant)

Vs. ITO, WARD-20(3),,  
NEW DELHI

(Respondent)

Assessee by : Sh. Nippun Mittal, CA  
Department by : Sh. C.P. Singh, Sr. DR.

**ORDER**

This appeal filed by the assessee is directed against the order passed by the Ld. CIT(A)-7, New Delhi on 20.09.2018 in relation to the assessment year 2010-11. Assessee has raised various grounds, but at the time of hearing, Ld. Counsel for the assessee has only argued ground no. 2 which is reproduced as under:-

“On the facts and circumstances of the case and in law, the reassessment proceeding initiated by the AO is contrary to specific provisions of section 147 to 151 of the Income Tax Act, 1961 and, therefore, the said reassessment proceeding initiated alongwith the assessment order passed by the Assessing Officer on the foundation of such proceeding are liable to be quashed and CIT(A) erred in not holding so.”

2. At the time of hearing, Ld. Counsel for the assessee argued only ground no. 2 which is legal in nature. He stated that the AO has initiated the reassessment proceedings, which is contrary to the provisions of section 147 of the I.T. Act, 1961 and also contrary to section 151 of the I.T. Act, 1961. The AO has completed the assessment and initiated the proceedings u/s. 147 of the Act without applying his mind and without getting the approval of the competent authority. In this behalf, he drew my attention towards page no. 25-27 of the Paper Book which is a copy of reasons recorded u/s. 148 of the Act alongwith copy of approval granted by the Pr. Commissioner of Income Tax-7, New Delhi for issuance of notice u/s. 148 of the Act and stated that 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 Ld. Pr. CIT-7, New Delhi wherein it was mentioned "*Yes, I am satisfied*", which shows that Ld. Pr. CIT-7, New Delhi 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 no. 2 is squarely covered by the decision of the ITAT, SMC, Bench, New Delhi dated 01.03.2018 in the case of Tara Alloys Ltd. vs. ITO Ward 25(1), New Delhi decided in ITA No. 2421/Del/2017 relevant to assessment year 2005-06 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.

3. On the contrary, Ld. Sr. DR relied upon the orders of the authorities below and stated that the reasons recorded and satisfaction / approval accorded is within the meaning of section 151 of the Act and need not to be quashed. He relied upon the decisions mentioned in the impugned order.

4. I have heard both the parties and carefully considered the case laws and the relevant documents available on record especially the assessment order, impugned order, reasons/satisfaction/approval recorded for issue of

notice u/s. 148 of the Act placed at page no. 25-27, which is a copy of performa for recording the reasons for initiating proceedings u/s. 148 and especially the page no. 27 of the Paper Book which is a copy of approval granted by the Pr. CIT-7, New Delhi in a mechanical manner for issuing notice u/s. 148 of the Income Tax Act, 1961 by mentioning as under:-

*"Yes, I am satisfied."*

4.1 After perusing the aforesaid remarks of the Ld. Pr. CIT-7, New Delhi, I find that the approval granted by the Pr. CIT-7, New Delhi is a mechanical and without application of mind, which is not valid for initiating the reassessment proceedings, because from the aforesaid remarks, it is not coming out as to which material; information; documents and which other aspects have been gone through and examined by the Pr. CIT-7, New Delhi for reaching to the satisfaction for granting approval. Thereafter, the AO has mechanically issued notice u/s. 148 of the Act. Keeping in view of the facts and circumstances of the present case and the case laws applicable in the case of the assessee, I am of the considered view that the reopening in the case of the assessee for the asstt. Year in dispute is bad in law and deserves to be quashed. I find considerable cogency in the contention of the Ld. Counsel for the assessee that the issue no. 2 raised in this appeal is squarely covered by the decision of the ITAT, SMC, Bench, New Delhi dated 01.03.2018 in the case of Tara Alloys Ltd. vs. ITO Ward 25(1), New Delhi decided in ITA No. 2421/Del/2017 relevant to assessment year 2005-06 wherein the Tribunal has quashed the assessment. My aforesaid view is also fortified by the following decisions :-

*A) United Electrical Company (P) Ltd. Vs. CIT & Ors. 258 ITR 317 (Del.) In this case, approval by the Addl. CIT u/s. 151 was given in the following terms:-*

*"Yes, I am satisfied that it is a fit case for issue of notice u/s. 148 of the Income Tax Act."*

*Analyzing, the above satisfaction/approval, it has been held that the CIT is required to apply his mind to the proposal put up to him for approval in the light to the material relied upon by the AO. The said power cannot be exercised casually and in a routine manner. We are constrained to observe that in the present case, there has been no application of mind by the Addl. CIT before granting the approval. (Para 19).*

(B) Hon'ble Supreme Court of India in the case of CIT vs. S. Goyanka Lime & Chemical Ltd. reported in (2015) 64 taxmann.com 313 (SC) arising out of order of Hon'ble High Court of Madhya Pradesh in CIT vs. S. Goyanka Lime & Chemicals Ltd. (2015) 56 taxmann.com 390 (MP).

*"Section 151, read with section 148 of 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 the Assessee)."*

4.2 In the background of the aforesaid discussions and respectfully following the precedents, as aforesaid, I am of the considered view that approval granted by the Pr. CIT-7, New Delhi is a mechanical and without application of mind, which is not valid for initiating the reassessment proceedings issue of notice u/s. 148 of the I.T. Act, 1961 and is not in accordance with section 151 of the I.T. Act, 1961, thus, the notice issued u/s. 148 of the Act is invalid and accordingly the reopening in this is bad in law and therefore, the same is hereby quashed. Accordingly, the legal ground no. 2 raised by the assessee is allowed. Since no other ground has been argued by the Ld. Counsel for the assessee, hence, the same are dismissed as such.

5. In the result, the Appeal filed by the Assessee stands partly allowed

Order pronounced on 19-03-2020.

Sd/-

**[H.S. SIDHU]  
JUDICIAL MEMBER**

Dated: 19-03-2020.

*SRB*

**Copy forwarded to:**

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

AR, ITAT, NEW DELHI.