

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : F : NEW DELHI
(Through Virtual Court Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.7243/Del/2019
Assessment Year: 2011-12

RMP Holding (P) Ltd., Shop No.9, Plot No.51, Block-C, Mahendru Enclave, Near Hans Cinema, New Delhi.	Vs	ITO, Ward-20(3), New Delhi.
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PAN: AAACR5533N

(Appellant)

(Respondent)

Assessee by	:	Shri Suresh Gupta, CA
Revenue by	:	Shri M. Barnwal, Sr. DR

Date of Hearing	:	16.07.2020
Date of Pronouncement	:	31.07.2020

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 5th August, 2019 of the CIT(A)-7, New Delhi, relating to assessment year 2011-12.

2. Facts of the case, in brief, are that the assessee is a company and filed its return of income on 17th August, 2011, declaring a loss of Rs.20,53,019/-. The case was scrutinized u/s 143(3) on 10th March, 2014, determining the income at

Rs.20,06,714/-. Thereafter, on the basis of information received during the course of search and seizure operation in the case of entry provider Shri Anand Kumar Jain and Shri Naresh Kumar Jain and subsequent investigation that the assessee is a beneficiary of Rs.39,00,055/-, the case of the assessee was reopened by recording reasons u/s 147. Subsequently, notice u/s 148 was issued on 26th March, 2018 after obtaining prior approval of the PCIT-7, New Delhi. In response to the same, the assessee filed a letter stating that the return already filed u/s 139 may be treated as the return filed in response to the notice u/s 148 of the Act. However, another letter dated 7th August, 2018 was issued to the assessee requesting him to file the return in response to notice u/s 148 of the Act. The assessee ultimately filed its return on 13th August, 2018 declaring a loss of Rs.4,053/-. Subsequently, the AO issued notice u/s 143(2) and 142(1) of the IT Act and copies of the reasons recorded were also handed over to the assessee.

3. During the course of assessment proceedings, the AO noted that the information was received in the case that the assessee has received accommodation entries from M/s Ambaranuj Finance and Investments Pvt. Ltd. of Rs.25 lakhs and M/s Zen Tradex Pvt. Ltd. of Rs.14 lakhs. During the course of assessment proceedings, the assessee filed confirmations from the above two companies and it was submitted that it had taken loans from these two parties. In order to verify the genuineness of these two parties, summons u/s 131 were sent to the above two parties on the address available at ROC website as well as on e-mail id. It was

made clear in the summons that personal deposition of the principal officer is required. However, on the appointed date, i.e., on 18th December, 2018, neither anybody attended nor any request for adjournment was received. In the meanwhile, on 16th December, 2018, the assessee was also asked to produce these parties for personal appearance. Since the assessee showed his inability to produce these parties and in absence of personal deposition of these parties, the AO rejected the confirmation so filed by the assessee holding that the same cannot be relied upon. The AO analysed the amount of Rs.39,00,055/- received by the assessee as accommodation entry. He considered the documents and electronic data seized from various premises by the Investigation Wing according to which a number of bank statements and signed and unsigned cheque books pertained to the shell companies of the Jain brothers were found. He noted as to how these two entities were being run by Shri Naresh Kumar Jain and the modus operandi. Rejecting the various explanations given by the assessee, the AO made addition of Rs.39,00,055/- u/s 68 of the IT Act.

4 Before the CIT(A), the assessee, apart from challenging the addition on merit, challenged the validity of the reassessment proceedings. However, the Id.CIT(A) upheld the reassessment proceedings initiated by the AO and the addition made by him u/s 68 of the Act.

5. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

ñ1. The impugned assessment is invalid and without jurisdiction as the said assessment is completed without complying with legal requirements of the provisions of section 147/148 of the Income Tax Act therefore such assessment is void ab initio and liable to be quashed.

2. The Ld. CIT(A) on the facts and circumstances of the case has erred in upholding the validity of impugned assessment order passed u/s 143(3)/147 of the Act on the ground that the AO was not entitled to take cognizance of the material seized from the third party by invoking provisions of sec 147/148 of the Act ignoring the specific provision u/s 153C of the Act dealing with such material.

3. The Ld. CIT(A) has erred both in law and circumstances of the case in upholding the reassessment proceedings initiated u/s 147 of the IT Act ignoring the contention of appellant that the proceedings have been initiated by the AO without application of independent mind on the material, if any, provided by the Inv. Wing of the department. In view of the above defects in the compliances the resultant reassessment proceedings are required to be set aside.

3.1 The validity of reassessment proceedings have been confirmed by Ld CIT(A) on basis of a finding of fact given by the Ld CIT(A) that the information from the investigation wing was specific which contains names of companies, cheques number and date of accommodation entries. The above finding is factually incorrect looking into the reasons recorded and on that ground the reassessment proceedings and the impugned assessment order both need be quashed as the reasons being vague, incoherent and indicative of lack of application of independent mind by the AO.

4. The Ld. CIT(A) has erred both in law and in facts of the case in upholding the impugned reassessment proceedings ignoring the fact that the sanction u/s 151 of IT Act as provided with the copy of the reason recorded shows mechanical satisfaction by the Pr CIT, Delhi-7, New Delhi and the Ld. CIT(A) have held that such mechanical satisfaction are procedural infirmity which does not invalidate the reassessment proceedings.

5. The Ld. CIT(A) has erred both in law and circumstances of the case in upholding the reassessment proceedings u/s 147 of the IT Act which is not properly initiated and therefore need be quashed as the appellants case is covered by proviso to section 147 of the IT Act and that being the case the AO has failed to give a finding as which material facts the appellant failed to disclose fully and truly during original proceedings and in the absence of any such finding, the initiation of reassessment proceedings and the impugned assessment order both are bad in law because such proceedings are as a result of change of mind by the successor incumbent on the same set of facts.

6. The Ld. CIT(A) has erred both in law and circumstances of the cases in upholding the addition of Rs.39,00,055/- u/s 68 of the IT Act holding the unsecured loan as unexplained cash credit ignoring the fact that the assessee has discharged its initial onus u/s 68 of the IT Act explaining nature and source of the credits by filing requisite documents proving identity and creditworthiness of the lenders and also to establish genuineness of the transaction during assessment proceedings.

7. The Ld. CIT(A) has erred both in law and circumstances of the cases in upholding action of the AO, in making addition u/s 68 of the IT Act of Rs.39,00,055/- is erroneous as the evidences filed by the appellant in support of cash credit of Rs.39,00,055/- have been rejected by the AO without conducting any enquiry thereon in discharge of onus shifting on the revenue after the initial onus discharged by the appellant.

8. The Ld. CIT(A) has erred both in law and circumstances of the cases in reliance on the material to take view adverse to the appellant without confronting the same and therefore action of the AO is in contravention of the principals of natural justice.

9. The Ld. CIT(A) has erred both in facts and circumstances of the case in upholding the impugned assessed income u/s 143(3) at Rs.20,06,714/- ignoring the fact the additions originally made were deleted in the first appeal and therefore the assessed income has to be taken considering the returned loss of Rs.20,53,019/- as the amount to which additions made in the assessment order need be made, thus the assessed income need be recomputed at Rs. 18,47,036/-

10. The appellant craves leave to add, delete, modify / amend the above grounds of appeal with the permission of the Hon'ble appellate authority.

6. The ld. counsel for the assessee, at the outset, submitted that the jurisdiction to make assessment in this case was assumed on the basis of the seized material from Shri Anand Kumar Jain and Shri Naresh Kumar Jain. Referring to the provisions of section 153C(1)(b) of the IT Act, he submitted that the power to take cognizance of the material seized from third party are exclusively available and such exclusivity rules out action against the assessee under the provisions including u/s 147/148 of the IT Act. For the above proposition, he relied on

various decisions as mentioned in the synopsis. He accordingly submitted that since the AO, in the instant case, has not issued notice u/s 153C(1) in order to proceed with the case but initiated reassessment proceedings u/s 147, therefore, the notice issued u/s 148 being not in accordance with law, such reassessment should be quashed as void ab initio.

7. The Id. Counsel for the assessee, in his second plank of argument, submitted that there is lack of independent application of mind by the AO. Referring to the copy of reasons recorded by the AO which has been reproduced by him from para 3 onwards of the assessment order, he submitted that the AO in the said reasons has recorded that the case was processed u/s 143(1) of the Act and no scrutiny assessment has been made. However, in the instant case, the order u/s 143(3) was passed on 10th March, 2014, determining the income at Rs.20,06,714/- as against the declared loss of Rs.20,53,019/- which has been mentioned by the AO in the order passed u/s 147/143(3) on 21st December, 2018. Thus, the AO, in the instant case, has not applied his mind and has recorded an incorrect fact that no scrutiny assessment had taken place. He submitted that in the original assessment proceedings, the AO had conducted inquiry regarding the unsecured loans accepted by the assessee which is considered by the AO as income escaping assessment. Notice u/s 133(6) were issued to the loan creditors in question during the original proceedings. Replies to the notices were received by the AO directly from the loan creditors. Therefore, the AO's failure to consider the above important material

while forming belief of escapement of income u/s 147(1) shows non-application of mind on the part of the AO. He submitted that when the receipt of unsecured loan, which is the income escaping assessment for reopening of assessment, was examined during original assessment proceedings and the assessee has submitted all the documents, in such a situation, merely on the basis of information from Investigation Wing about the alleged receipt of accommodation entry would be a case of non-application of mind by the AO on the material on record. For the above proposition, he relied on the decision of the Hon'ble Delhi High Court in the case of *Pardesi Developers & Infrastructure (P) Ltd. vs. CIT*, 220 Taxman 18 (Delhi).

8. Referring to the decision of the Hon'ble Delhi High Court in the case of *Shamshad Khan vs. ACIT*, 395 ITR 265, he submitted that the Hon'ble Delhi High Court in the said decision has found the variation in the return of income mentioned in the reasons with that of the return submitted by the assessee and quashed the reassessment proceedings on account of non-application of mind.

9. Referring to the decision of the Hon'ble Punjab & Haryana High Court in the case of *CIT vs. Atlas Cycles Industries*, 180 ITR 319, he submitted that the Hon'ble High Court in the said decision has held that the Tribunal was right in cancelling the reassessment as both the grounds on which the reassessment notice was issued were not found to exist and, therefore, the Income-tax Officer did not get jurisdiction to make reassessment. He also relied on various other decisions

mentioned in the written synopsis according to which the condition precedent for issue of notice for reassessment is that the reason to believe that income has escaped assessment must be based on correct facts. Notice based on wrong facts is without jurisdiction and is to be quashed.

10. In his third alternate argument, the Id. Counsel for the assessee submitted that since there is no specific reference of the seized material from persons searched and how the same was considered for formation of belief is a case of non-application of mind. He submitted that there is a general mention of various unspecific seized material including seized papers and digital evidences and also certain statements of individuals connected to Jain brothers. He submitted that in absence of identification of any particular seized material and considering of its contents, no person of ordinary intelligence could have reached a belief u/s 147 of the Act. So far as the statement of unnamed individuals are concerned, he submitted that firstly, their names are not stated and contents of their statements are not specifically dealt with and it is not clear as to whether name of the assessee was mentioned by any of the individuals examined by the Investigation Wing. Non-naming of the individuals proved that the statements of those individuals were not available to the AO at the time of formation of belief/recording of reasons. In absence of these basic details either not available with him and even if available the same were not dealt in reasons recorded, such reason fails on account of the reason being vague and the same being without independent application of mind.

He submitted that the reason for reopening must be complete and self explanatory demonstrating due application of mind by the AO of all relevant material in his possession. Referring to the decision of the Hon'ble Delhi High Court in the case of Sabh Infrastructure vs. ACIT, 398 ITR 198, he submitted that the Hon'ble High Court in the said decision, referring to various other decisions has held that the reasons to believe has to be self explanatory. He accordingly submitted that on this account also the notice issued u/s 147 should be quashed and thereby the reassessment proceedings have to be held as void ab initio.

11. The Id. Counsel for the assessee submitted that in the reasons recorded although the AO has identified various modes of accommodation entries such as provision of cheques/RTGS, etc., for unaccounted cash either through fake purchase and sale, commodity profit/loss, fake commission, one time entry or other modes, but, failed to identify the particular modes of accommodation entries out of those enumerated above. In absence of identification of mode of accommodation entry, the reasons recorded by him is vague, incoherent and leave the reader of the same clueless. Such reason does not meet the requirement of law and, therefore, the reassessment proceedings should be quashed.

12. The Id. Counsel for the assessee submitted that nowhere the AO has identified the entities of Jain brothers providing accommodation entries nor the name of the so-called middleman, if any. Further, important details in the form of instrument no. through which cheques/RTGS was accepted by the assessee

company, name of the bank from which the accommodation entry was provided, name of the bank in which the accommodation entry was credited and the date of transaction is missing in the reasons. The date of transaction is important to verify whether the transaction falls in the year under consideration which is extremely important piece of information to justify independent application of mind. Referring to the decision of the Delhi bench of the Tribunal in the case of M/s Superior Buildwell Pvt Ltd., vide ITA No.3301/Del/2017, he submitted that the Tribunal has quashed the reassessment proceedings on account of incorrect facts and not mentioning the names of the entities in the reasons recorded.

13. The Id. Counsel for the assessee, in his another plank of argument submitted that there is ambiguity of the nature of deemed escapement of income and also there is contradictions in the proforma for obtaining sanction u/s 151. Referring to copy of the form for recording reasons for initiating proceedings u/s 147 and for obtaining the approval of Addl.CIT/CIT, copy of which is placed at page 88 of the paper book, , the Id. Counsel for the assessee drew the attention of the Bench to clause 8 of the same where it has been mentioned as under:-

ñWhether the assessment is proposed to be made for the first time ÿ Yes.ò

14. Referring to the approval given by the Addl.CIT, he submitted that he has simply mentioned as under:-

ñRecommended for issue of notice u/s 148 of the IT Act for assessment year 2011-12.ò

15. Similarly, PCIT has mentioned as under:-

“Yes. It is a fit case for issue of notice u/s 148 read with section 147 of the IT Act, 1961.”

16. Thus, there is no proper application of mind while recording the reasons either by the AO or by the superior authorities while granting approval for reopening of the assessment. Relying on various decisions mentioned in the synopsis and in the case law compilation, he submitted that merely mentioning “Yes. Approved” has been considered as non-application of mind by the higher authorities.

17. The Id. Counsel for the assessee, in his another plank of argument submitted that the assumption of jurisdiction to proceed with reassessment before supply of reasons makes the entire reassessment proceedings invalid. He submitted that the assessee in the instant case filed a letter dated 12th April, 2018 stating that the return of income filed u/s 139 of the IT Act be treated as return of income filed in response to notice u/s 148 and also requested for supply of reasons. On the direction of the AO, vide letter dated 7th August, 2018, the return of income was filed on 13th October, 2018. Thereafter, the AO issued notice u/s 143(2) and 143(1) dated 16th October, 2018 and supplied proforma of reasons recorded on 22nd October, 2018 against which the assessee submitted objection to assumption of jurisdiction u/s 147 on 5th November, 2018. The AO disposed of the same on

09.11.2018. He submitted that the AO assumed jurisdiction by issuing notice u/s 143(2) of the Act on 16th October, 2018 before supplying reasons which means that the AO assumed jurisdiction to make reassessment before allowing the assessee to file objection to assumption of jurisdiction. Therefore, assuming jurisdiction by issuing notice u/s 143(2) before allowing the assessee to file objection and subsequent disposal of the same is nothing, but, non-application of mind by the AO to the legal requirements of the law. For the above proposition, he relied on the decision of the Hon'ble Delhi High Court in the case of Mastech Technologies Pvt. Ltd. vs. DCIT, vide Writ Petition No.2858/2016 dated 13.07.2017 where it has been held that issuance of notice u/s 142(1)/143(2) before supplying the reasons and considering objection of the petitioner and passing reasoned order thereon does not meet the requirement of law. Such legal infirmity leads to the inevitable invalidation of all the proceedings that took place pursuant to notice u/s 148.

18. The ld. Counsel for the assessee, in his another plank of argument, submitted that there is error in quantification of income escaping assessment. He submitted that the credit entries accepted by the assessee totaled to Rs.39 lakhs whereas the reasons recorded shows escaped income of such entries at Rs.39,00,055/-. The difference of Rs.55/- in the bank charges paid by the lender while transferring the funds was also considered as income escaping assessment. Therefore, on this count also the reassessment proceedings should be quashed due to non-application of mind. He submitted that the AO in the instant case, has issued notice u/s 147 on

the basis of borrowed satisfaction solely relying on information from the Investigation Wing without verifying the facts applicable in the instant case. He has not applied his independent mind on information provided and the entire reason deals with the information of the Investigation Wing. Relying on various decisions, he submitted that where the reopening is based on the report of the Investigation Wing without application of independent mind by the AO, the reassessment proceedings has to be quashed.

19. The Id. Counsel for the assessee submitted that the first proviso to section 147 is squarely applicable to the facts of the instant case. He submitted that in the instant case, the original return of income was filed on 17th August, 2011 and the assessment year concerned is 2011-12. The assessment was completed u/s 143(3) on 10th March, 2014 and the notice u/s 147 was issued on 26th March, 2018 which is beyond four years from the end of the relevant assessment year and there is no allegation in the reasons recorded that there is failure on the part of the assessee to disclose fully and truly all material facts necessary for completion of the assessment for that assessment year. He submitted that although the AO has mentioned that no scrutiny assessment has been made in this case in the reasons recorded, however, the fact is that scrutiny assessment had taken place in this case and the order u/s 143(3) was passed on 10th March, 2004, determining the total income at Rs.20,06,714/- as against the returned loss of Rs.20,53,019/-. During the original scrutiny assessment proceedings, the AO had examined the unsecured

loans and has completed the assessment. Since the original assessment in this case was completed u/s 143(3) after considering the material facts including the amount of Rs.39,00,055/- for which the assessee had filed the confirmation, bank statements, copy of income-tax return along with other relevant details of loan creditors in question and more than four years has elapsed from the end of the relevant assessment year, therefore, the first proviso to section 147 is clearly applicable to the facts of the present case. Referring to the copy of the reasons recorded which is placed at paper book page 66 to 80, he submitted that there is not a whisper in the said notice regarding any failure on the part of the assessee to disclose fully and truly all material facts necessary for completion of the assessment. Relying on various decisions, he submitted that when the original assessment was completed u/s 143(3) and four years time has passed from the end of the relevant assessment year, no reopening of assessment is possible unless there is allegation by the AO of any failure on the part of the assessee to disclose fully and truly all material facts necessary for the completion of the assessment.

20. Referring to the recent decision of the Hon'ble Supreme Court in the case of NDTV vs. DCIT vide CA No.1008/2020, order dated 3rd April, 2020, he submitted that the Hon'ble Supreme Court in the said decision has quashed the reassessment proceedings for not mentioning the first proviso either in the reasons recorded or in the notice issued u/s 148 of the IT Act. Referring to the decision of the Hon'ble Delhi High Court in the case of BPTP Ltd. vs. PCIT, vide Writ Petition

No.13802/2018, order dated 11.01.2020, he submitted that the Hon'ble High Court in the said decision has held that if the AO has failed to perform a statutory duty, he cannot review his decision and reopen on a change of opinion. The reopening is not an empty formality. There has to be relevant tangible material for the AO to come to the conclusion that there is escapement of income and there must be a live link with such material for the formation of the belief. Merely using the expression 'failure on the part of the assessee to disclose fully and truly all material facts' is not enough. The reasons must specify as to what is the nature of default or failure on the part of the assessee. Relying on various other decisions, he submitted that in view of the first proviso to section 147, the reopening of the assessment by the AO is *void ab initio*.

21. The Id. Counsel for the assessee, in another plank of argument submitted that the reason recorded by the AO is nothing, but a change of opinion. In the original assessment proceedings, the above cash credits in question have been duly verified by the then AO which is evident from the notices issued u/s 133(6) to the loan creditors in the original proceedings copies of which are placed in the paper book. The concerned parties had replied directly to the AO. The AO had conducted inquiry regarding unsecured loan accepted by the assessee. Therefore, there was no justification for re-visiting the issue of reopening the assessment as it amounts to change of opinion. Relying on various decision, he submitted that when the assessee, during the original assessment proceedings, had filed complete

details of the loan creditors with their confirmations, copies of income-tax returns, bank statements, etc., and the AO had accepted such unsecured loans during the original assessment proceedings finding the same to be genuine, the successive authorities cannot review the decision of the earlier authority. For the above proposition, he relied on the decision of the Hon'ble Supreme Court in the case of ACIT vs. Marico Ltd. vide SLP No.7367/2020, order dated 11th June, 2020.

22. So far as the merit of the case is concerned, he submitted that the assessee had filed the MCA master data, public document, confirmation, copy of income-tax return of the loan creditors, bank statement of the loan creditors, copies of the replies to summons filed before the AO through speed post with annexures, audited financial statements of loan creditors, subsequent year ledger account showing repayment of loan along with the bank interest to the loan creditors and computation of income wherever required.

23. He submitted that in the case of M/s Ambaranuj Finance and Investments Pvt. Ltd., the assessment was completed u/s 153A/143(3) by the ACIT, CC-26, New Delhi, vide order dated 28th December, 2017 and there is no adverse finding given by the AO regarding the activities of the above lender company. There is no mention of the lender engaged in providing accommodation entry. Similarly, in the case of loan borrowed from another company i.e., M/s Zen Tradex Pvt. Ltd., the said lender company is engaged in the business as finance company which has given loan to the assessee company after arranging funds and due to this there is

credit of identical funds in the bank account of the lender company. It is the allegation of the AO that the assessee did not produce the directors and summons remained uncomplied with and identical amounts were transferred to the accounts of these lender companies on the same date before transfer of the same to the assessee company. Controverting the above allegations of the AO, the Id. Counsel submitted that no show cause notice was issued to the assessee before such inferences were drawn and, therefore, it amounts to denial of principle of natural justice. Further, the assessee had repaid the loans and had no control over the directors of the lender companies after the loans were repaid with interest. The AO had enough power in his hand to enforce the attendance of the directors of the lender companies which he failed to do. He submitted that the AO had issued summons to the lenders to appear before him on 18th December, 2018 and then before the compliance of the summons of 18th December, 2018 the AO on 16th December, 2018 issued additional notice to the assessee asking it to produce the lenders. This shows that the AO had taken the above twin actions without due application of mind. He submitted that when the AO on his own issued summons for personal deposition fixing the date of compliance, it is not understood as to why the AO presumed that the summons issued will not be complied by the lenders. He submitted that where the AO initiated the process of personally calling the directors of the alleged companies, he was under an obligation to intimate the fact of non-compliance of the summons of those parties. In any case, he submitted

that since the assessee had repaid the loans with interest, it was beyond his control and capacity to produce the directors of the lender companies after a long gap.

24. Referring to the decision of the Hon'ble Delhi High Court in the case of Makhani & Tyagi Pvt. Ltd., 267 ITR 430, he submitted that the Hon'ble High Court in the said decision has held that when documentary evidence in support of identity of creditors along with the assessment particulars or other evidences are placed on record which had neither been controverted nor it is disproved by the AO, no interference of the AO is called for. Referring to various decisions, he submitted that even on merit also the assessee had fulfilled all the three ingredients of section 68, i.e., the identity and capacity of the loan creditors and genuineness of the transaction, therefore, no addition is called for.

25. The ld. DR, on the other hand, heavily relied on the order of the CIT(A) in confirming the validity of the reassessment proceedings and the addition sustained by him on merit. He submitted that in the instant case, the AO has correctly invoked the provisions of section 147 on the basis of the information found from the material seized from a third party. Referring to the decision of the Hon'ble Supreme Court in the case of Yogender Kumar Gupta vs. ITO, 227 taxman 374, and the decision of the Pune Bench of the Tribunal in the case of Sushil Kumar S Nadkarni, vide ITA No.826/PN/2010, order dated 29.11.2013, he submitted that in the instant case, provisions of section 153C are not applicable and the AO has

correctly initiated proceedings u/s 147 on the basis of the information available with him which the Id. CIT(A) has upheld.

26. So far as the argument of the Id. Counsel regarding lack of independent mind by the AO on the information of Investigation Wing is concerned, he submitted that the AO had duly applied his mind before reopening the assessment u/s 147 and he issued notice u/s 148 only after analyzing the information received from the Investigation Wing. There is complete application of mind by the AO in this case. Referring to the decision of the Hon'ble Supreme Court in the case of Raymond Woolen Mills Ltd., Vs ITO, 236 ITR 34, he submitted that the Hon'ble Supreme Court in the said decision has held that in determining whether commencement of reassessment proceedings was valid, it has only to be seen whether there was prima facie some material on the basis of which the department could reopen the case. The sufficiency or correctness of the material is not a thing to be considered at this stage.

27. Referring to the decision of the Hon'ble Supreme Court in the case of ACIT vs. Rajesh Jhaveri Stock Brokers P. Ltd., 291 ITR 500, he submitted that the Hon'ble Supreme Court has held that at the initiation stage, what is required is 'reason to believe' on the established fact of escapement of income. At the stage of issue of notice, the only question is whether there was relevant material on which a reasonable person could have formed a requisite belief. Whether the material should conclusively prove the escapement is not the concern at this stage.

Relying on various other decisions, the Id. DR submitted that the AO had correctly invoked the provisions of section 147 and the CIT(A) has rightly upheld the same.

28. So far as the argument of the Id. Counsel for the assessee that there was mechanical approval given by the superior authorities are concerned, the Id. DR, referring to the decision of the Hon'ble Delhi High Court in the case of Sonia Gandhi vs. ACIT, 407 ITR 594, submitted that the Hon'ble High Court in the said decision has held that for the purpose of section 151(1) of the Act, what the court should be satisfied about is that the Addl. CIT has recorded his satisfaction on the reasons recorded by the AO that it is a fit case for the issue of such notice. In the present case, the court is satisfied that by recording in his own writing the words "Yes, I am satisfied" the mandate of section 151(1) of the Act as far as approval of the Addl.CIT was concerned stood fulfilled.

29. So far as the merit of the case is concerned, he submitted that the addition of Rs.39,00,055/- was made by the AO u/s 68 on account of introduction of accommodation entries from M/s Ambaranuj Finance and Investments Pvt. Ltd., and M/s Zen Tradex Pvt. Ltd. The documents filed by the assessee before the AO were not sufficient to fulfill the rigors of the three ingredients of section 68 of the Act, i.e., identity of the creditor, capacity of the creditor and genuineness of the transaction, particularly in view of the findings of the Investigation Wing and the inquiry carried out by the AO. The relevant bank account revealed back to back transactions which are typical to the accommodation entries. The apparent attempt

of the assessee appears to be merely to complete the paper trail. The summons issued u/s 131 to the Principal Officer of the alleged creditor companies at the available address as well as by mail remained uncomplied with. The assessee also expressed its inability to produce the directors of the alleged creditor companies. Thus, the assessee failed to discharge the onus cast on him to substantiate the genuineness of the transaction and the identity and capacity of the loan creditors.

30. So far as the argument of the Id. Counsel that the assessment in the case of M/s Ambaranuj Finance and Investments Pvt. Ltd., was completed u/s 153A/143(3) and no adverse findings were given by the AO is concerned, he submitted that the assessment in the hands of the lender company has no bearing on the assessability of the transaction in the hands of the assessee as being accommodation entries and the transactions have to be examined in the hands of the beneficiary which is the assessee in the instant case. Relying on various decisions, he submitted that the addition made by the AO and sustained by the CIT(A) is fully justified.

31. The Id. Counsel for the assessee, in his rejoinder, strongly challenged the arguments advanced by the Id. DR. So far as the argument of the Id. DR that the AO has validly invoked the provisions of section 147 on the basis of the information found from the material seized from a third party is concerned, he submitted that amendment to section 153C has brought out material change in applicability of section 153C for assessing income in the hands of the persons other

than the person searched. Prior to the amendment, the power under above section qua an assessee was available only in case where incriminating documents/valuables are seized from the search of other parties and, in addition to that it needed to be proved by the Department that such documents/valuables belong to the assessee. The compliance of this twin conditions are prerequisite for valid assumption of jurisdiction u/s 153C. The amendment enlarges the scope of power u/s 153C under which cognizance of incriminating material seized from the searched persons pertaining to the assessee or any information contained therein, could be taken against such an assessee. The implication of the above amendment was that even if the document/material from third party does not belong to the assessee, but, contained transactions pertaining to the assessee or containing information in relation to the assessee, the only option under the Act was to act under section 153C. The reason being the presence of non-obstante clause paraphrasing the section itself which rules out action under other sections including section 147/148 of the Act.

32. So far as the decision relied on by the Id. DR in the case of Yogendra Kumar Gupta (supra) is concerned, he submitted that the apex court dismissed the SLP of the assessee against the order of the Hon'ble Gujarat High Court without giving reason for dismissal and, therefore, it has not laid down the law. The Gujarat High Court's decision was merely on the issue of assumption of jurisdiction by the AO u/s 147 of the Act on the basis of seized material from third party. The issue of

applicability of section 153C was neither raised or considered for adjudication either before the High Court or before the apex court and, therefore, it cannot be said that this judgment supports the stand of the Revenue that section 153C has no application on the facts of the case. He submitted that the above judgment of the apex court has been considered by the coordinate Bench of the Tribunal in the case of Charan Kamal Singh vs. ACIT, vide ITA No.4662/Del/2007, order dated 21.03.2018, wherein after considering the above decision of the apex court, the Hon'ble Tribunal held that assuming jurisdiction u/s 147 by the AO is not valid on the basis of the material seized from third party and the correct section under which action could be taken by the Revenue is section 153C alone.

33. So far as the decision of the Pune Bench of the Tribunal in the case of Sushil Kumar S. Nadkarni (supra) is concerned, he submitted that in fact, the above judgement supports the case of the assessee that post amendment, the powers u/s 153C only can be exercised as the requirement of the amended section has been met. He accordingly submitted that the argument advanced by the Id. DR for non applicability of section 153C is not in accordance with law in view of the specific amendment brought in the statute book.

34. So far as the argument of the Id. DR that the AO has applied his mind on the basis of the information received from the Investigation Wing is concerned, he submitted that the Id. DR does not dispute the factual inconsistencies in the reasons recorded since he could not controvert the contradictory stand of the AO wherein

in the reasons he records that only summary assessment was done whereas in the assessment order passed u/s 147/143(3) he mentions that the original assessment was completed u/s 143(3). The various decisions relied on by the Id. DR, according to him, are not applicable to the facts of the present case in view of the glaring incorrect facts recorded in the reasons. So far as the argument of the Id. DR that there is no mechanical approval u/s 151 and for which he relied on the decision of the Hon'ble Delhi High Court in the case of Sonia Gandhi (supra), he submitted that coordinate Benches have considered the above decision of the Hon'ble Delhi High Court. The above decision is contrary to the decisions of the Hon'ble Delhi High Court in the case of German Remedies Ltd. vs. DCIT, 287 ITR 494, Central India Electric Supply Co. Ltd. vs. ITO, 333 ITR 237, PCIT vs. NC Cables Ltd., 391 ITR 11, United Electrical Company Pvt. Ltd. vs. CIT & Ors., 258 ITR 317. He submitted that none of these decisions were cited and considered by the Hon'ble High Court in the case of Sonia Gandhi. Relying on various decisions cited in the case law compilation, the coordinate Benches after considering the decision in the case of Sonia Gandhi have held that approval granted by the authority in a mechanical manner and without application of mind cannot be considered as valid approval and accordingly the reassessment proceedings have been quashed. So far as the argument of the Id. DR that the addition sustained by the AO on merit is proper and for which he relied on various decisions, he submitted that none of those decisions under the facts and circumstances of the present case are applicable.

35. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find, the AO, on the basis of the information obtained that the assessee has received accommodation entry of Rs.39,00,055 from M/s Ambaranuj Finance and Investments Pvt. Ltd., (Rs25 lakhs) and M/s Zen Tradex Pvt (Rs.14 lakhs), which in turn was found out during the search operation at the premises associated with Jain brothers who are known accommodation entry providers, reopened the assessment u/s 147/148 of the Act by recording the reasons.

36. Before we proceed further, we deem it proper to reproduce the form for recording the reasons for initiating proceedings u/s 147 for obtaining approval of Addl.CIT/CIT as under:-

**Form for recording the reasons for initiating proceedings u/s 147 and for obtaining the approval of the
Addl. CIT/CIT/CBDT**

1.	Name and address	M/s RMP Holdings (P) Ltd. 138-C, Block-B, Group-4, Dilshad Garden, Delhi – 110095.
2.	PAN	AAACR5533N
3.	Status	Company
4.	Ward/Circle	WARD 20(3)
5.	Asst. Year in respect of which it is proposed to issue notice u/s 148	2011-12
6.	The quantum of income which has escaped assessment	Rs. 39,00,055/-
7.	Whether the provisions of section 147(a), 147(b) are applicable or all the Sections are applicable	U/s 147 of the I.T. Act 1961
8.	Whether the assessment is proposed to be made for the first time	<u>Yes</u>
9.	If answer to item 7 is negative state	
(a)	Income originally assessed	Return filed on 17.8.2011 showing loss of Rs.20,53,019/-
(b)	Whether it is a case of under assessment, at lower rate, assessment which has been made the subject of excessive relief or allowing excess loss/depreciation	NA
10.	Whether the provision of Sec. 150(1) are applicable. If the reply is in affirmative the relevant facts may be stated against Item No. 11 and 8 may also be brought out that the provisions of Sec. 150(2) would not stand in the way of initiating proceedings u/s 147.	No
11.	Reasons for the belief that income has escaped assessment	As per Annexure 'A'

Recording of reasons for reopening the case of
M/s RMP Holdings Pvt. Ltd., A.Y.2011-12
PAN: AAACR5533N

Background:-

The assessee company was incorporated on 16.06.1995 under the Company Act, 1956. The directors of the assessee company, as per the return for A.Y.2011-12 are Smt. Madhu Khemka, R/o B-506, Gali No. 3, Majlis Park, Azadpur, Delhi 110033 and Sh. Sanjeev Sureka, R/o B-1/31, Yamuna Vihar, Delhi 110053. The company filed its return of income on 17.8.2011 for the assessment year 2011-12 declaring loss of Rs.20.53.019/- The case was processed under section 143(1) of the Act and no scrutiny assessment was made.

INFORMATION ON ACCOMMODATION ENTRIES PROVIDED BY SH. ANAND KUMAR JAIN AND SH. NARESH KUMAR JAIN TO VARIOUS BENEFICIARIES

A Search & Seizure operation under section 132 of the Income Tax Act 1961 was conducted on 17.12.2015, in the case of Sh. Anand Kumar Jain and Sh. Naresh Kumar Jain (the Jain Brothers) who are in the business of providing accommodation entries to various beneficiaries through cheques/DD/RTGS/NEFT in lieu of cash, through various paper and dummy companies floated and controlled by them. Both the persons mentioned above are practicing Chartered Accountants. However their main business is restricted to providing illegal accommodation entries. For this purpose they have created certain entities such as companies and firms which are managed and controlled by them.

1.2. The search operation on the premises associated with the Jain Brothers was effectuated with the objectives to confirm and validate the illegal activities of providing accommodation entries to various beneficiaries, which was carried out by them. The endeavour of the investigation carried out by this exercise is to expose the techniques and methods used by the Jain Brothers for this purpose, and to bring all material facts and evidences on record so as to prove their role as "accommodation entry providers" as a fact beyond doubt and identify the beneficiaries of such transactions in order to bring unaccounted income into the folds of taxation.

1.3. The modus operandi of the Jain Brothers as entry operators follows the standard pattern of most other entry providers wherein money is routed through paper companies controlled by the Jain brothers. These companies are found to be incorporated by taking care of all formalities such as registering with ROC but are having only postal addresses with no real office or employees. Many of these companies did not even have proper postal addresses as the services of the postmen were used to deliver the statutory letters to the agents/employees of the Jain Brothers. The directors of such companies are again individuals who are mostly illiterate or semiliterate and work for the entry operators for small salaries or commission. Many of such directors were not traceable and of the many who were traced out, none of the directors had any idea relating to the working of the companies of which they were the directors. Many of these "directors" were actually working as peons, watchmen, domestic help etc.

1.4. It was established during the investigations, these are only paper companies used to route the unaccounted income and, provide bogus accounts for non-existent transactions. Also it has been exposed through search and seizure operations and the post-search actions of investigations, that the Jain Brothers control a number of bank accounts for depositing cash and companies for routing the entries.

In fact, on the basis of the complete perusal of the evidences seized during the entire search, the following is concluded:-

- a. Papers and digital evidences relating to the shell companies were found in all the premises covered by the search
- b. Whatever documentary or digital evidence was found during the search related either to the Jain Brothers and their shell companies, or to the concerns/persons who were the beneficiaries of the transactions passed through the shell companies.

1.5. The biggest evidence of the activity of the Jain Brothers as accommodation entry providers through the bogus entities was found in the hard disc of a computer installed at the residence of Kaushal Kumar (an employee of Jain Brothers) which also served as a server for the computers installed at the Pitampura office of the Jain Brothers. This computer, contained a folder named "Jain" in which the records of such entry transactions had been maintained in tally software. This data contained details of the amounts rotated in cash and through banks and was being used by the Jain Brothers to keep track of the accommodation entries rotated by them through the various companies and firms controlled by them.

2. Role of Sh. Anand Kumar Jain and Sh. Naresh Kumar Jain in managing the Various Companies from different Residential and Business Premises through dummy directors:

2.1. The search action was conducted at the residential as well as business addresses related to Sh. Anand Kumar Jain and Sh. Naresh Kumar Jain (henceforth also called as "Jain Brothers" in this report) and those of their employees or associates. Out of the premises covered by the entire search action, only one premise, i.e., 333-A 2nd FLOOR, SANT NAGAR, EAST OF KAILASH, New Delhi, which was also a property owned by Naresh Kumar Jain, was given as the address of a number of companies and firms, mentioned in the statutory records filed by such concerns. However, all the books of accounts and other relevant papers of the various companies were found from the other premises of Jain Brothers and those of their employees or associates, and nothing was found at this address. It was uncovered that no work was carried out at this address and this was a mere paper address while the "actual work", which was related to accommodation entries, was carried out at the other premises which were covered by the search. It became known that despite the fact that none of the companies and firms registered at this address actually operated out of this premises in any way, an arrangement had been put in place by Shri Naresh Jain to ensure that all statutory correspondences relating to the above mentioned companies/firms addressed at this premises were safely delivered to him by his employee, Amit Bhardwaj. In this process, the postmen of the area had also been roped in to deliver all letters and other correspondences to the persons deputed by Sh. Naresh Kumar Jain. In this manner, Sh. Naresh Jain had managed to create and perpetuate the legal fiction of the existence and working of these entities from this address. The control over various entities by the Jain Brothers was ensured in this manner.

The search action divulged that this was the pattern with respect to the activities carried out by all the companies/firms set-up by the Jain Brothers; all such entities either did not physically exist or had a nominal existence and their financial activities were managed from the premises of the Jain Brothers.

The search and the subsequent investigations clearly showed that the bogus companies/concerns run by Sh. Anand Kumar Jain and Sh. Naresh Kumar Jain were controlled by them through dummy directors/principal officers of these companies/concerns and utilised by them to give accommodation entries to desirous persons. This could be established by a careful examination of seized material,

including the computer hard discs and tally data, which contain the books of accounts of these companies alongwith other important and confidential documents of these companies. These documents should have not been in the possession of Sh. Anand Kumar Jain and Sh. Naresh Kumar Jain had they not been the actual controller of these companies. Moreover the investigations proved that the directors/principal officers mentioned in the statutory records of the companies/concerns were not traceable, or when traced, were men of lesser means or capabilities, who admittedly were mere name lenders. The statements given by key persons augmented the fact about the control exercised over these companies by the Jain Brothers and their usage as tools in the provision of accommodation entries.

2.2 The biggest evidence of the activity of the Jain Brothers as accommodation entry providers through these bogus companies/firms was found in the hard disc of a computer installed at the residence of Kaushal Kumar (an employee of Jain Brothers) which also served as a server for the computers installed at the Pitampura office of the Jain Brothers. This computer, contained a folder named "Jain" in which the records of such entry transactions had been maintained in tally software. This data contained details of the amounts rotated in cash and through banks and was being used by the Jain Brothers to keep track of the accommodation entries rotated by them through the various companies and firms controlled by them. The names of these companies/firms, henceforth referred to as the shell companies of the Jain Brothers, have been given below:

S.N O.	NAME	ADDRESS	DIRECTORS/Partners	PAN NO.
1	AMBARNUJ FINANCE & INVESTMENT PVT. LTD	243, NORTHEX MALL, SECTOR-9 Rohini, New Delhi-85	ANAND KUMAR JAIN, SURBHI CHANDRA,	AAACA5799F
2	ANAND KUMAR JAIN	C-9/46, SEC-8, ROHINI, DELHI-85		AAEPJ1642F
3	ANAND KUMAR JAIN HUF	C-9/46, SEC-8, ROHINI, DELHI-85		AAAHA3209F
5	BRR SECURITIES PVT. LTD.	126, VARDHMAN FORTUNE MALL, COMMUNITY CENTRE, G.T. KARNAL ROAD	NARESH KUMAR JAIN, PANKAJ JAIN,	AAACK5745K
6	CERAM SALES PVT.	B-87, BLOCK B,	ASHU	AADCC0084A

	LTD.	DEFENCE COLONY, New Delhi	DHINGRA,NIR MAL SINGH.	
7	COMO INFOSOLUTIONS P LTD.	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	NIRMAL SINGH,VIJAY PAL RAWAT,	AADCC0002A
8	CVH SEA LIFES LTD.	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	BHAGIRATH SETHI,RAVINDE R KUMAR,VIKAS BANSAL	AACCC5820B
9	GAJANAN REALCON PVT. LTD.	SHOP NO. 146, GALI NO. 13, NATHU PURA New Delhi -84	RAJESH VERMA,VIKAS KADAM,	AACCG8176G
10	GALLANT COMPUTECH PVT. LTD.	326, LGF, SANT NAGAR , EAST OF KAILASH, New Delhi	VIKAS BANSAL, AVINASH CHANDRA	AADCG1347E
11	GANESHA INVESTMENTS	333A, IInd FLOOR, SANT NAGAR	No Return	AAHFG7166N
14	GOMATI CONSULTANTS PVT. LTD.	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	DEVICHARAN, MANOJ KUMAR,	AACCG3616M
15	GROUPONE INFORMATIVE SERVICES PVT. LTD.	7B/11.SIRINIWASPURI , EAST OF KAILASH, New Delhi	MANOJ KUMAR,SANDE EP DHINGRA,	AACCCD3330M
16	JINDAL SAXENA FINANCIAL SERVICES PVT. LTD.	Shop No. 243, North- Ex Mall, Sector-9, Delhi, 85	REKHA JAIN,SUNIL KUMAR SINGLA,	AAACJ0757C
17	KANU PERIPHERALS PVT. LTD.	326, LGF, SANT NAGAR , EAST OF KAILASH, New Delhi	SANJEET KUMAR,VIKAS BANSAL,	AADCK3958P
18	KARDA TRADERS	B-163, AMAR	BHUSHAN	AADCK7802Q

	PVT. LTD.	COLONY, New Delhi	GOEL, VIJAY PAL RAWAT,	
19	KESHAV TRADING CO.	333A, 11nd FLOOR, SANT NAGAR, EOK	No Return	AAKFK0658G
20	KUSHAAGRA EXPORTS PVT. LTD.	R-17, PRIVATE COLONY, SRINIWAS PURI, New Delhi	ANIL KUMAR, ASHU DHINGRA,	AADCK6309E
21	M3M TRADERS PVT. LTD.	7B/11A, SHRI NIWASPURI, EAST OF KAILASH, New Delhi-65	NITIN KUMAR CHADDA, NIRM AL SINGH,	AACCD3923E
22	MACRO IT SYSTEM PVT. LTD.	326, LGF, SANT NAGAR, EAST OF KAILASH, New Delhi	ANIL KUMAR NITIN KUMAR CHADDA RAVINDER KUMAR	AAECM7259E
23	MAFLE INDUSTRIES PVT. LTD.	333A, 11nd FLOOR, SANT NAGAR, EAST OF KAILASH, New Delhi	PULKIT JAIN VIKAS BANSAL JANARDAN BARIK	AAECM0732G
24	MAHADEV INVESTMENTS	333-A 2nd FLOOR, SANT NAGAR, EAST OF KAILASH, New Delhi	BHUSHAN GOEL VIJAY PAL RAWAT	AATFM1998G
25	MAHALAXMI TRADING CO. (Prop. REKHA JAIN)	333-A 2nd FLOOR, SANT NAGAR, EAST OF KAILASH, New Delhi	N/A	ADXPJ5786A
26	NARESH KUMAR JAIN	D-11/103, SEC8, ROHINI		ACCCPJ9547R
27	NARESH KUMAR JAIN (HUF)	D-11/103, SEC8, ROHINI		AACCHN4894F
28	NEW ERA TRADEEXPO PVT. LTD.	326, LGF, SANT NAGAR, EAST OF KAILASH, New Delhi	SANJEET KUMAR, VIKAS BANSAL,	AACCN8169N
29	NEXT GENERATION	R-17, PRIVATE COLONY, SRINIWAS	ANIL KUMAR, ASHU	AACCN9821B

For RMP HOLDINGS DIV

—	EXIM PVT. LTD.	PURI, New Delhi	DHINGRA,	AAAC2358K
30	NINE CORPORATE INCEPTIONS PVT LTD.	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	DEVICHARAN, MALLIKA DEVI,VIKAS BANSAL	AAICS2335P
31	PRAGAYA MULTITRADERS PVT. LTD.	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	DEVICHARAN, MALLIKA DEVI	AAACK0670K
32	PURUS MARKETING P LTD.	B-87, DEFENCE COLONY New Delhi	BHUSHAN GOEL,NIRMAL SINGH	AAECP2129A
34	ROUND SQUARE EXIM PVT. LTD.	B-163, AMAR COLONY,New Delhi	BHUSHAN GOEL,VIJAY PAL-RAWAT,	AAECR5167Q
35	SAI INFOWEB PVT. LTD.	326, LGF, SANT NAGAR , EAST OF KAILASH, New Delhi	ANIL KUMAR,NITIN KUMAR CHADDA,	AALC55794H
36	SUNSHINE INN PVT. LTD.	B-163, AMAR COLONY,New Delhi	DEVICHARAN, MALLIKA DEVI,	AAACS2056D
37	TECHNOSOFT INFOSYSTEM P LTD.	326, LGF, SANT NAGAR , EAST OF KAILASH, New Delhi	VIKAS PRASHANT	AACCT3296J
38	THIRD GENERATION TRADERS PVT. LTD.	R-17, PRIVATE COLONY, SRINIWAS PURI, New Delhi	ANIL KUMAR,ASHU DHINGRA,	AADCT1524A
39	VARDHMAN NETWORK SOLUTIONS PVT. LTD.	7B/11A,SHRI NIWASPURI, EAST OF KAILASH, New Delhi-65	MANOJ KUMAR,NITIN KUMAR CHADDA,	AACCV0972B

40	YUNAN SALES PVT. LTD.	B-87, DEFENCE COLONY New Delhi	NIRMAL SINGH, VIJAY PAL RAWAT,	AAACY2963R
41	ZED ENTERPRISES PVT. LTD.	312, SANT NAGAR , EAST OF KAILASH, New Delhi-65	DEVICHARAN, MANOJ KUMAR,	AAACZ3568R
42	ZEN TRADEX PVT. LTD.	312, SANT NAGAR , EAST OF KAILASH, New Delhi-65	DEVICHARAN, MALLIKA DEVI,	AAACZ3570B
43	ZEUS IMPEX PVT. LTD.	312, Sant Nagar, East of Kailash, New Delhi-65	DEVICHARAN, MALLIKA DEVI,	AAACZ3569Q
44	JEMINI TRADING CO.	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	NITIN CHADDA NIRMAL SINGH	AAHFJ8476G
45	JAI MAA BHAWANI OVERSEAS PVT LTD	B-5/263 sector 3, Rohini-Delhi85	KAVITA VIKAS BANSAL	AABCJ0239L
46	JKS IMPEX PVT LTD.	412, MG House Community Centre - 1, Wazirpur Indl. Ares New Delhi-52	SANDEEP DHINGRA KAVITA	AABCJ6878R
47	Shivangi Garments Pvt. Ltd.	A 2/170, Sec-3 Rohini, Delhi-85	SANDEEP DHINGRA RAJESH KUMAR GOYAL	AALCS3264J
48	Shivij Garments Pvt. Ltd.	B-18, NEW INDIA APARTMENT SEC-9, ROHINI, DELHI-85	SURBHI CHANDRA AVINASH CHANDRA	AALCS3760M
49	Subhlabh Traders	333-A 2nd FLOOR, SANT NAGAR , EAST OF KAILASH, New Delhi	NITIN CHADDA ANIL KUMAR	ABZFS7042N
50	Subhadra Securities	333A 2ND FLOOR, SANTNAGAR EAST OF, KAILASH, NEW DELHI, DELHI,	NIRMAL SINGH PRABHJEET SINGH	ABXFS1285M
51	Subh Laxmi		No return	ABLFS0186M

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	Portfolio			
52	Sukumar Buildwell Pvt.	B-5/263, Sec-3 Rohini, Delhi-85	KAVITA DEVICHARAN	AAICS7517H
53	V K S Properties Pvt. Ltd.	412, MG House Community Centre - 1, Wazirpur Indl. Ares New Delhi-52	VIMAL KUMAR JAIN NARESH KUMAR JAIN	AACCV2627D

3 ✓ The investigation in respect of the documents and electronic data seized from the various premises revealed a number of bank statements and signed & unsigned cheque books. All these bank documents pertained to the shell companies of the Jain Brothers. Accordingly, information was called in respect of the bank accounts from various banks and branches which were identified from the seized materials. From the perusal of the details collected from the banks, it was found that most of these accounts were managed and controlled by Shri Anand Kumar Jain or Shri Naresh Kumar Jain. The complete details collected in this regard are encapsulated in the following table:-

Company Name	Bank	Branch	A/C no.	Registered Mobile no.	Mail Id
AMABRANU J FINANCE & INVESTMENT PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000015109	9810038489 (Anand Jain)	ambarnuj_finance@rediffmail.com
B R R SECURITIES PVT. LTD	IDBI	ASHOK VIHAR, DELHI	0201102000018577	9811764122 (Pankaj Jain)	brrsecurities@gmail.com
C P Iron Furniture Pvt	KOTAK MAHINDRA	PREET VIHAR	1832090000311	9310016550 (Kaushal Kumar)	
CHANDRA BUILDCON PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000020776	9560413868 (Kavita)	nareshjain_ca@rediffmail.com
CHANDRA BUILDCON PVT LTD	KOTAK MAHINDRA	CHANDNI CHOWK	01862000015371	9313317121 (Anand Jain)	CHANDRA_BUILDCON@REDIFFMAIL.COM
COMO INFO SOLUTIONS PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000014313	9818045781 (Naresh Jain)	officeno1@rediffmail.com
DANODIA IMPEX PVT LTD	KOTAK MAHINDRA	G.K. DELHI	1952000000341	9818045781 (Naresh Jain)	DANODIAIMPEX@GMAIL.COM
DELHI PORTFOLIO management	IDBI	ASHOK VIHAR DELHI	0201102000014562	9599494897 (Vijay Pal Rawat)	

For RMP HOLDINGS PVT. LTD.

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DR APPARELS & FASHION PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	1972000000074	9810038489 (Anand Jain)	dr_apparel@rediffmail.com
GALLANT COMPUTECH PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011000303	9818045781 (Naresh Jain)	vbansal78@gmail.com
GANESHA INVESTMENTS PVT LTD	KOTAK MAHINDRA	SECTOR -3, ROHINI	1972090000435		GANESHAIN VESTMENTS @REDIFFMAIL
GOMATI CONSULTANTS PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000015880	8860005781 (Naresh Jain)	gomaticconsultants@rediffmail.com
GOMATI CONSULTANTS PVT LTD	HDFC BANK	NORTH EX MALL, ROHINI, DELHI	13472560000703	9818045781 (Naresh Jain)	nareshjain_ca@rediffmail.com
GOMATI CONSULTANTS PVT LTD	KOTAK MAHINDRA	FRIENDS COLONY	19520000000229	9818045781 (Naresh Jain)	nareshjain_ca@rediffmail.com
GOMATI CONSULTANTS PVT LTD	DEUTSCHE BANK	K G MARG, N, DELHI	451430019	9810109612	nareshjain_ca@rediffmail.com
GROUPONE INFORMATIVE SERVICES PVT LTD	IDBI	ASHOK VIHAR, DELHI	02011020000015659	9818045781 (Naresh Jain)	
JAI MAA BHAWANI OVERSEAS PVT LTD	KOTAK MAHINDRA	CHANDNI CHOWK	01862000015355	09873938489 (Anand Jain)	JAIMAA BHAWANI@REDIFFMAIL.COM
JAI MAA BHAWANI OVERSEAS PVT LTD	HDFC BANK	KAPIL VIHAR, DELHI	1582000017035	9810038489 (Anand Jain)	amburnuj_finance@rediffmail.com
JEMINI TRADING CO.	IDBI	ASHOK VIHAR, DELHI	02011020000014650	9818045781 (Naresh Jain)	officenol@rediffmail.com
JEMINI TRADING CO.	AXIS BANK	LOK VIHAR, DELHI	914020054917066	9540403664 (Naresh Jain)	jeminitrading@gmail.com
JINDAL SAXENA FINANCIAL SERVICES PVT LTD	IDBI	ASHOK VIHAR, DELHI	02011020000019099	9540403664 (Naresh Jain)	JINDALSAXENA@GMAIL.COM

For RMP HOLDINGS PVT. LTD.

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JKS IM-EX PVT LTD.	KOTAK MAHIND RA	CHAND NI CHOWK	018620000032 73	9873938489 (Anand Jain)	JKS_IMPEX@ REDIFFMAIL. COM
KAILASH PORTFOLIO PVT LTD.(NOW PRAGAYA MULTITRAD ERS PVT LTD)	HDFC BANK	NORTH EX MALL. ROHINI , DELHI	134725600006 78	9818045781 (Naresh Jain)	nareshjain_ca @rediffmail.c om
KANU PERIPHERALS PVT LTD	KOTAK MAHIND RA	ROHINI , DELHI	612011000311	9818045781 (Naresh Jain)	vbansal78@g mail.com
KARDA TRADERS PRIVATE LTD	IDBI	ASHOK VIHAR, DELHI	0201102000014 207	9818045781(Naresh Jain)	NARESHJAIN _CA@REDIFF MAIL.COM
KCJ BUILDTECH PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000015 075	9999247132 (Vishnu Mishra)	kcj_buildtech @rediffmail.c om
KESHAV TRADING CO.	IDBI	ASHOK VIHAR, DELHI	201102000008 587	9560123251	
KESHAV TRADING CO.	AXIS BANK	SEC-7, ROHINI	9110200324260 75	8860005781 (Naresh Jain)	
KUSHAGRA EXPORTS & PVT LTD	HDFC BANK	NORTH EX MALL. ROHINI , DELHI	1347256000008 43	9818045781 (Naresh Jain)	kushaagraexp orts@gmail.c om
M/s NINE CORPORATE OPTIONS PVT LTD.	KOTAK MAHIND RA	PREET VIHAR	1832000000053 0	3818045781 (Naresh Jain)	SKMCREATI ONS@REDIF FMAIL.COM
M3M TRADERS PVT. LTD.	IDBI	ASHOK VIHAR, DELHI	0201102000016 490	9818045781 (Naresh Jain)	officenol@re diffmail.com
MACRO IT SYSTEM PVT LTD	KOTAK MAHIND RA	ROHINI , DELHI	612011000968	9818045781 (Naresh Jain)	macroitsyste m@yahoo.co m
MACRO IT SYSTEM PVT LTD	HDFC BANK	NORTH EX MALL. ROHINI , DELHI	13472560000154 2	9818045781 (Naresh Jain)	macroitsyste m@yahoo.co m
MAHA LAXMI TRADING CO	KOTAK MAHIND RA	CHAND NI CHOWK	0186200000009 03	9818045781 (Naresh Jain)	NARESHJAIN _CA@REDIFF MAIL.COM

For RMP HOLDINGS PVT. LTD.

Ankit

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MAHADEV INVESTMENTS	IDBI	ASHOK VIHAR, DELHI	0201102000014623	9818045781 (Naresh Jain)	NARESHJAIN_CA@REDIFFMAIL.COM
MANJU FURNITURE PVT LTD	KOTAK MAHINDRA	PREET VIHAR	1832090000303	9310016550 (Kaushal Kumar)	
NEXT GENERATION EXIM PVT LTD	HDFC BANK	NORTH EX MALL, ROHINI, DELHI	13478470000071	9818045781 (Naresh Jain)	nextgenexim@yahoo.in
PRAGAYA MULTITRADERS PVT LTD	HDFC BANK	KASHMERE GATE	134725600000678	9818045781 (Naresh Jain)	
PRAGYA MULTITRADERS PVT LTD	AXIS BANK	SANJAY GANDHI TPT NAGAR, DELHI	913020043481267	9818045781 (Naresh Jain)	
PURUS MARKETING PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000014216	9818045781 (Naresh Jain)	officeno1@rediffmail.com / NARESHJAIN_CA@REDIFFMAIL.COM
PURUS MARKETING PVT LTD	AXIS BANK	SEC-7, ROHINI	911020029013471	8860005781 (Naresh Jain)	
ROUND SQUARE EXIM PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011017064	9818045781 (Naresh Jain)	roundsquareexim@gmail.com
SAI INFOWEB PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000014322	9818045781 (Naresh Jain)	NARESHJAIN_CA@REDIFFMAIL.COM
SHIVANGI GARMENTS PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	19720000000087	9810038489 (Anand Jain)	SHIVANGI_GARMENTS@REDIFFMAIL.COM
SHIVJI GARMENTS PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000015172	9873938489 (Anand Jain)	shivij_garments@rediffmail.com
SHUBH LABH TRADERS	IDBI	ASHOK VIHAR, DELHI	0201102000014571	9818045781 (Naresh Jain)	
SHUBHADRA SECURITIES	IDBI	ASHOK VIHAR, DELHI	0201102000014632	9599494898 (Nitin Kumar Chadda-used by Naresh Jain)	nareshjain_ca@rediffmail.com
SOUTHERN PACIFIC HOTELS PVT LTD.(NOW	HDFC BANK	NORTH EX MALL, ROHINI	134725600000661	9818045781 (Naresh Jain)	nareshjain_ca@rediffmail.com

For P... ..

SUNSHINE INN PVT. LTD.)		, DELHI			
SUBHLAXMI PORTFOLIO	KOTAK MAHINDRA	ROHINI, DELHI	1972090000414		SUBHLAXMI PORTFOLIO @REDIFF
SUKUMAR BUILDWELL PVT LTD	KOTAK MAHINDRA	CHANDNI CHOWK	01862000004363	9313317121/9873938489 (Anand Jain)	SUKUMAR_BUILDWELL@REDIFFMAIL.COM
SUKUMAR BUILDWELL PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011002635	9718787321 (Sachin Gupta-Ex Employee of Jain Brothers and Brother of Rahul Gupta, now expired)	sukumar_buildwell@rediffmail.com
SUNSHINE PRIVATE LIMITED	HDFC BANK	KASHMERE GATE	13472560000661	9818045781 (Naresh Jain)	
SUNSHINE INN PVT. LTD	HDFC BANK	NORTH EX MALL, ROHINI, DELHI	13472560000661	9818045781 (Naresh Jain)	nareshjain_ca@rediffmail.com
SUNSHINE INN PVT. LTD	AXIS BANK	SANJAY GANDHI TPT NAGAR, DELHI	913020043446390	9818045781 (Naresh Jain)	southernpacific@gmail.com
TECHNO SOFT INFOSYSTEM PRIVATE LTD	HDFC	NEHRU PLACE	13742320001020	9818045781 (Naresh Jain)	
TECHNO SOFT INFOSYSTEM PVT LTD	IDBI	ASHOK VIHAR, DELHI	0201102000015376	9818045781 (Naresh Jain)	technosoftinfosystem@gmail.com
THIRD GENERATION TRADERS PVT LTD	HDFC BANK	NORTH EX MALL, ROHINI, DELHI	13478470000061	7065438313 (Anil Kumar-used by Naresh Jain)	thirdgentraders@yahoo.in
THIRD GENERATION TRADERS PVT LTD	KOTAK MAHINDRA	MALVIYA NAGAR	19420000006539	9818045781 (Naresh Jain)	
VARDHMAN NETWORK SOLUTIONS PVT LTD	KOTAK MAHINDRA	G.K	19520000000809	9818045781 (Naresh Jain)	VNSPVTLTD@REDIFFMAIL.COM
VKS PROPERTIES	KOTAK MAHINDRA	ROHINI, DELHI	19720000000213		VKS_PROPERTIES@REDIFF

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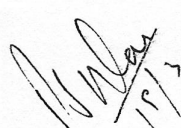
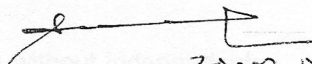
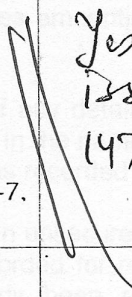
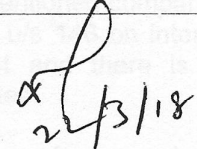
PVT LTD	RA				MAIL.CO
YUNAN SALES PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011017072	9818045781 (Naresh Jain)	yunan@... gmail.com
ZED ENTERPRISES PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011000370	9818045781 (Naresh Jain)	
ZEN TRADEX PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011000447	9818045781 (Naresh Jain)	
ZEN TRADING PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011018738	9818045781 (Naresh Jain)	devimallika1980@gmail.com
ZEUS IMPEX PVT LTD	KOTAK MAHINDRA	ROHINI, DELHI	612011019100	9818045781 (Naresh Jain)	kumarmanoj01041974@gmail.com

The above table furnishes the specific information about the above mentioned companies/concerns being under the control of the Jain Brothers as their mobile number and e-mail ID were registered with the accounts of these companies maintained with the respective banks. All the information of the transactions were being forwarded by the banks to the Jain Brothers on these numbers, and, their affairs were managed by them instead of the directors/partners of these concerns.

Income chargeable to tax escaping assessment

The above facts clearly establish that the Jain Brothers had created a network of shell companies and concerns in order to provide the accommodation entries such as provision of cheque/RTGS etc for unaccounted cash, provision of fake purchase & sale, commodity profits/loss, fake commission, one time entry or other mode of entries and M/s RMP Holdings Pvt. Ltd has taken accommodation entries amounting to Rs.39,00,055/- during the FY 2010-11 relevant to AY 2011-12. In view of this, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return, deemed to be cases where income chargeable to tax has escaped assessment. Keeping in view all the above, I have reason to believe that an amount at least of Rs. Rs. 39,00,0055/- has escaped assessment in case of M/s RMP Holdings Pvt. Ltd. for the A.Y. 2011-12 within the meaning of Section 147/148 of Income Tax Act, 1961.

The assessment/re-assessment proceedings in this case for A.Y. 2011-12 pertain to period beyond four years but before the expiry of six years from the date of issue of notice. Moreover, as the case pertains to a period beyond four years from the end of relevant assessment years at the time of issue of notice, necessary sanction has to be obtained from Pr. Commissioner of Income tax in view of the amended provisions of section 151 w.e.f. 01.06.2015. The necessary sanction in this regard is may be accorded for AY 2011-12.

The Principal Officer, 139-C, Block-B, Group-4, Plohad Garden, Delhi - 110035 Sr. Dated	 (P.S. Narayanan) Income tax Officer, Ward 20(3), New Delhi
Addl. CIT Range 20, New Delhi	Recommended for issue of notice up to 148 of the IT Act for AY 2011-12  20.03.18
Pr. Commissioner of Income tax, Delhi-7, New Delhi	Yes, it is a fit case for issue of notice up to 148 of the IT Act, 1961 
Dated:	Signature of officer Name Designation:  24/3/18

37. We find, the AO in the assessment order at para 1 has mentioned as under:-

ñThe assessee company filed the return of income for AY 2011-12 declaring loss of Rs, 20,53,019/- on 17.8.2011. The case was scrutinized u/s 143 (3) on 10.3.2014 determining an income of Rs. 20,06,714/-. Thereafter, on the basis of information received regarding the search & seizure operation in the case of entry provider Sh. Anand Kumar Jain and Sh. Naresh Kumar Jain (the Jain Brothers) and the assessee being beneficiary of Rs. 39,00,055/-, the reasons were recorded for reopening u/s 147 of the Act. Subsequently notice u/s 148 of the Income Tax Act, 1961 was issued on 26/03/2018 after obtaining prior approval of the Pr. CIT-7, New Delhi and served through email as well as post. In response thereto, the assessee filed a letter stating that the return already filed u/s 139 may be treated as return filed in response to notice u/s 148. However, another letter dated 7.8.2018 was issued to the assessee requesting him to file the return in response to notice u/s 148 issued by this office. Ultimately, the assessee filed his return of income on 13.10.2018 declaring loss of Rs. 4,053/-. Thereafter Notice u/s 143 (2) and 142 (1) of the IT. Act was issued and "copies of the reasons recorded were also handed over to the assessee. In response to the statutory notices, Shri Mukesh Mittal and Shri Amit Garg, ARs of the assessee appeared and filed details. The case was discussed with them.ò

38. A perusal of the above vis-à-vis the reasons recorded and form of approval shows that although the original assessment was completed u/s 143(3) on 10th March, 2014, the AO, in the form for obtaining approval at clause 8 has categorically mentioned that the assessment is proposed to be made for the first time and in the background of reasons also has mentioned that the case was processed u/s 143(1) of the Act and no scrutiny assessment was made. A perusal of the reasons recorded nowhere shows any allegation by the AO that there was failure on the part of the assessee to disclose fully and truly all material facts necessary for completion of the assessment. Since, in the instant case, the original assessment was completed u/s 143(3) on 10th March, 2014 for the A.Y. 2011-12 and the notice u/s 148 was issued on 26th March, 2018, therefore, the first proviso

of section 147 is applicable to the facts of the present case. The Hon'ble Supreme Court in the case of NDTV Ltd. Vs. DCIT vide Civil Appeal No. 1008 of 2020 dated 3rd April, 2020, has quashed the reassessment proceedings for not mentioning the first proviso neither in the reason recorded nor in the notice issued u/s 148. The Hon'ble Delhi High Court in the case of BPTP Ltd. vs. PCIT, vide Writ Petition No.13803/2018, order dated 28.11.2019 has held that if the AO has failed to perform his statutory duty, he cannot review his decision and reopen on a change of opinion. It has been held that reopening is not an empty formality. There has to be relevant tangible material for the AO to come to the conclusion that there is escapement of income and there must be a live link with such material for the formation of the belief. Merely using the expression 'failure on the part of the assessee to disclose fully and truly all material facts' is not enough. The reason must specify as to what is the nature of default or failure on the part of the assessee. The Hon'ble Bombay High Court in the case of Anand Developers, vide Writ Petition No.17/2020, order dated 18th February, 2020, has held that a mere bald observation by the AO that the assessee has not disclosed fully and truly all the material facts is not sufficient. The AO has to give details as to which fact or the material was not disclosed by the assessee leading to its income escaping assessment. Otherwise reopening is not valid. The Hon'ble Delhi High Court in the case of Haryana Acrylic Manufacturing Company vs. CIT, 308 ITR 38, order dated 1st July, 2020, has held as under:-

19. Examining the proviso [set out above], we find that no action can be taken under section 147 after the expiry of four years from the end of the relevant assessment year if the following conditions are satisfied:

- (a) an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year; and
- (b) unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee:
 - (i) to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148; or
 - (ii) to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Condition (a) is admittedly satisfied inasmuch as the original assessment was completed under section 143(3) of the said Act. Condition (b) deals with a special kind of escapement of income chargeable to tax. The escapement must arise out of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148. This is clearly not the case here because the petitioner did file the return. Since there was no failure to make the return, the escapement of income cannot be attributed to such failure. This leaves us with the escapement of income chargeable to tax which arises out of the failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for that assessment year. If it is also found that the petitioner had disclosed fully and truly all material facts necessary for its assessment, then no action under section 147 could have been taken after the four year period indicated above. So, the key question is whether or not the petitioner had made a full and true disclosure of all material facts.

20. In the reasons supplied to the petitioner, there is no whisper, what to speak of any allegation, that the petitioner had failed to disclose fully and truly all material facts necessary for assessment and that because of this failure there has been an escapement of income chargeable to tax. Merely having a reason to believe that income had escaped assessment, is not sufficient to reopen assessments beyond the four year period indicated above. The escapement of income from assessment must also be occasioned by the failure on the part of the assessee to disclose material facts, fully and truly. This is a necessary condition for overcoming the bar set up by the proviso to section 147. If this condition is not satisfied, the bar would operate and no action under section 147 could be taken. We have already mentioned above that the reasons supplied to the petitioner does not contain any such allegation. Consequently, one of the conditions precedent for removing the bar against taking action after the said four year period remains unfulfilled. In our recent decision in *Wel Intertrade (P.) Ltd.* we had agreed with the view taken by the Punjab and Haryana High Court in the case of *Duli Chand Singhania* that, in the absence of an allegation in the reasons recorded that the escapement of income had occurred by reason of failure on the part of the assessee to disclose fully

and truly all material facts necessary for his assessment, any action taken by the Assessing Officer under section 147 beyond the four year period would be wholly without jurisdiction. Reiterating our viewpoint, we hold that the notice dated 29-3-2004 under section 148 based on the recorded reasons as supplied to the petitioner as well as the consequent order dated 2-3-2005 are without jurisdiction as no action under section 147 could be taken beyond the four year period in the circumstances narrated above.ò

39. The various other decisions relied on by the Id. Counsel also support his case to the proposition that where there is no allegation in the reasons recorded that there is failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment u/s 147 of the Act, the notice issued u/s 148 after a period of four years from the end of the relevant assessment year in a case where original assessment has been framed u/s 143(3) of the Act is illegal and invalid since proceedings are without jurisdiction.

40. Since, in the instant case, the original assessment was framed u/s 143(3) on 10th March, 2014 determining the income at Rs.20,06,714/- as against the returned loss of Rs.20,53,019/- and wherein the issue of unsecured loan creditors was duly considered and accepted on the basis of various supporting documents filed at the time of original assessment and since there is no allegation in the reasons recorded that there is failure on the part of the assessee to disclose fully and truly all material facts necessary for completion of the assessment, therefore, the notice issued u/s 148 after a period of four years from the end of the relevant assessment year in the instant case is illegal and invalid being without jurisdiction. Further, as mentioned earlier, the AO has proceeded to reopen the assessment on the basis of

wrong appreciation of facts by mentioning that the assessment is proposed to be made for the first time whereas the facts stood otherwise, i.e., the assessment was, in fact, completed u/s 143(3) of the Act, therefore, there is complete non-application of mind by the AO as well as by both the superior authorities. Thus, the approval has been given in a mechanical manner without appreciating the facts properly and there is complete non-application of mind by the superior authorities. Therefore, on this score also, the reassessment proceedings have to be quashed and the decision relied on by the Id. DR in the case of Sonia Gandhi (supra) is not at all applicable to the facts of the present case in view of the glaring mistake and omission that has been committed by the AO which was not looked into by the superior authorities. In view of the above, we quash the reassessment proceedings initiated u/s 147/148. The various other legal grounds raised by the Id. Counsel challenging the validity of the reassessment proceedings become academic in nature in view of the above discussion. Since the assessee succeeds on this legal ground, the grounds challenging the addition on merit also become academic in nature and, therefore, are not being adjudicated.

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

The decision was pronounced in the open court on 31.07.2020.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 31st July, 2020.

dk

Copy forwarded to

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

Asstt. Registrar, ITAT, New Delhi