आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 867 & 869/JP/2018
निर्धारण वर्ष/Assessment Years :2008-09 & 2009-10

Shri Satya Narayan Bairwa, 97/77, Shipra Path, Mansarovar, Jaipur (Raj).	बनाम Vs.	I.T.O., Ward-2(4), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AHPPB 0077 J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Shri Shravan Kumar Gupta (Adv.)
राजस्व की ओर से/ Revenue by : Smt. Runi Pal (Addl.CIT)

सुनवाई की तारीख/ Date of Hearing : 20/07/2021
उदघोषणा की तारीख/ Date of Pronouncement : 15/09/2021

आदेश/ ORDER

PER: SANDEEP GOSAIN, J.M.

These are the appeals filed by the assessee against the separate orders of ld.CIT(A), Kota both dated 01/03/2018 for the A.Ys. 2008-09 and 2009-10.

2. Since the common issues are involved in both these appeals, therefore, both were heard together and for the sake of convenience, a common order is being passed.

3. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic.

4. As a lead case, for deciding the appeals, we take ITA No. 867/JP/2018 for the A.Y. 2008-09, wherein following grounds have been taken by the assessee.

"1.1 The impugned order u/s 147/144 dated 01.03.2016 is bad in law and on facts of the case, for want of jurisdiction, barred by limitation and various other reasons and hence the same may kindly be quashed.

1.2 The action taken u/s 147 is bad in law and on facts of the case, for want of jurisdiction and various other reasons and hence the same may kindly be quashed.

1.3 The ld. AO has grossly erred in law as well as on the facts of the case in passing the Exparty Assessment order in gross breach of law without providing adequate and reasonable opportunity of being heard to the assessee. Hence the assessment so made and consequent addition so made may kindly be quashed and delete.

3.1 Rs.50,65,000/- : The ld. CIT(A) has grossly erred in law as well as on the facts of the case in sustaining the addition of Rs.50,65,000/- u/s 69A on account of cash deposit in the saving bank account. Hence the addition so made by the AO and confirmed by the ld. CIT(A) is being totally contrary to the provisions of law and facts on the record and hence the addition may kindly be deleted in full.

3.2: The ld. CIT(A) has also grossly erred in law as well as on the facts of the case in passing the order in gross breach of law without providing further adequate and reasonable opportunity of being heard to the assessee despite the admitted facts that an application was made to the ld. AO for obtaining documents from the assessment record, which have not been provided till date. Hence the assessment so made and consequent addition so made by the ld. AO and confirmed by the ld. CIT(A) may kindly be quashed and delete.

4. The ld. AO has grossly erred in law as well as on the facts of the case in charging interest u/s 234A, 234B & 234C. The appellant

totally denies it liability of charging of any such interest. The interest, so charged, being contrary to the provisions of law and facts, may kindly be deleted in full.

5. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.

The assessee has also raised revised or modified grounds of appeal and the same is as under:

"1.1 & 1.2. The impugned order u/s 147/144 dated 01/03/2016,as well as the action taken u/s 147/148 are bad in law, illegal, invalid, void ab initio on facts of the case, for want of jurisdiction, without proper approval and satisfaction of higher authorities u/s 151 of the Act and also barred by limitation and various other reasons and hence the same may kindly be quashed."

5. All the grounds and he revised/modified grounds No. 1.1. and 1.2 of the appeal raised by the assessee are interrelated and interconnected and relates to challenging the order of the ld. CIT(A) on the ground that impugned order u/s 147/144 dated 01/03/2016,as well as the action taken u/s 147/148 are bad in law, illegal, invalid, void ab initio on facts of the case, for want of jurisdiction, without proper approval and satisfaction of higher authorities u/s 151 of the Act and also barred by limitation, therefore, we thought it fit to dispose off by this consolidated order.

6. The brief facts of the case are that the assessee is an individual having income from agriculture and labour. He has not filed his return of

income for the year under consideration because the income stated to be below the taxable limit. On this, the Assessing Officer issued notice u/s 148 of the Income Tax Act, 1961 (in short, the Act) on 24.03.2015 on the basis of information and on the reason that "the assessee has deposited cash of Rs.50,65,000/- in his Savings bank a/c maintained with OBC Bank, Chitrakoot Jaipur during F.Y. 2007-08 (A.Y. 2008-09) and the assessee has not filed his ITR for A.Y. 2008-09. The source of above cash deposit made by the assessee was not verifiable. Thereafter the AO has issued notices u/s 142(1) of the Act. The AO issued the notices time to time which have also not been complied with by the assessee. However the Assessing Officer has passed assessment order U/s 144 of the Act on 01/03/2016, wherein he made addition of Rs.50,65,000/- U/s 69A of the Act on account of cash deposit in the bank.

7. Being aggrieved by the order of the A.O., the assessee carried the matter before the ld. CIT(A) and stated the fact that the appeal had been decided by the A.O. ex parte and a reply dated 19.01.2018 has also been submitted before the ld. CIT(A) and the ld. CIT(A) has mentioned the contents of the reply of the assessee in his order at page No. 3 para No. 5, as under.

> *"In this connection it is submitted that the above matter was decided exparty u/s 144 and to bring the correct facts and information before your honor inspection of the assessment record was necessary and the ld. AO has*

allowed the inspection of the assessment record just on 18.01.2019. On inspection of the assessment record we have come to know about some vital facts and technicalities. Hence we have applied for the certified copies of documents and record to the ld.AO on 19.01.2019 copy of the same are enclosed. The assessee has not received those documents till date. And for the justice and to decide the matter on merit and on legal issue those documents are very necessary, because those documents are in the assessment record not with the assessee."

But after considering the submissions of parties and material placed on record, confirmed the action of the AO. Against the said order of the ld. CIT(A), the assessee has preferred the present appeal before the ITAT on the grounds mentioned above.

8. The grounds No. 1.1 and 1.2 raised by the assessee in the revised grounds of appeal relate to challenging the order of the ld. CIT(A) in confirming the action taken U/s 147 of the Act on the ground that the order U/s 147/144 dated 01/3/2016 as well as action taken U/s 147/148 of the Act are bad in law, illegal, invalid and void ab initio on facts of the case for want of jurisdiction, as no prior approval and satisfaction of the higher authorities U/s 151 of the Act was sought or taken and also action U/s 147 of the Acdt is barred by limitation. The ld AR appearing on behalf of the assessee has reiterated the same arguments as were raised before the ld. CIT(A) and also relied on the written submissions filed before the Bench and the submissions qua the issue under consideration are as under:

"1. No approval from CIT or Pr. CIT u/s 151: As in the above case the notice u/s 148 issued after expiry four years and as per provisions of Sec. 151 notice after four years can be issued only after obtaining the sanction or approval u/s 151(1) from the CIT or Pr. CIT. And in the present case no approval has been taken from the Pr. CIT but the approval has been taken from the Add.CIT Range-2, Jaipur admittedly. Hence the issuance the notice 148 and consequent assessment order passed is invalid, illegal void ab-initio and liable to be quashed on this ground alone. Because this is the case of for A.Y. 2008-09 and four years has expired on 31.03.2013 and the notice u/s 148 has been issued on dt. 24.03.2015 vide page 1 para 2 of the assessment order. Also vide copy of reasons recorded (PB1-3) and approval u/s 151 (PB7-8). He relied on the following judicial pronouncements:

i. Dhadha Exports V/s ITO 377 ITR 347(Raj.)

ii. Delhi High Court in CIT Vs. SPL's Siddhartha Limited

iii. Ghanshyam K. Khabrani v/s ACIT 346 ITR 443(Bom.)

iv. CIT V/s SPL's Siddhartha Ltd 345 ITR 223(Del).

v. CIT vs. Soyuz Industrial Resources Ltd.(2015) 232 TAXMAN 0414 (Delhi HC)

vi. Pr. CIT vs. N.C. CABLES LTD.(2017) 98 CCH 0018 Del HC

2. No Satisfaction or application of mind by the Pr. CIT: Further on perusal of the reason recorded and approval u/s 151 by the without competent authority it is clearly proved that they have not applied the mind on the reasons recorded they have only expressed or mentioned yes I am satisfied by the Add. CIT not by Pr. CIT on the reason forwarded. While as per decision of Pr. CIT vs. N. C. Cables Ltd.(2017)

98 CCH 0010 Del HC it has been 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. The mere appending of the expression 'approved' says nothing. It is not as if the CIT has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the 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 officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be disturbed.

Here is also the same position copy of reason recorded is enclosed(PB1-3) because no satisfaction by the ld. Pr. CIT, the satisfaction if any was of the ld. Add. CIT, who is not competent in the present case. He has relied on the following case laws:

i. *Maruti Clean Coal And Power Ltd. vs. ACIT (2018) 400 ITR 0397 (Chhattisgarh)*

ii. *CIT vs. S. Goyanka Lime & Chemicals Ltd. (2015) 231 TAXMAN 0073 (MP)*

iii. *PAC AIR SYSTEMS P. LTD. vs. ITO (2020) 58 CCH 0001 Del Trib*

iv. *GORIKA INVESTMENT AND EXPORT (P) LTD. vs. ITO (2018) 53 CCH 0168 Del Trib.*

v. *TARA ALLOYS LTD. vs. ITO (2018) 63 ITR (Trib) 0484 (Delhi)*

And the ld. CIT(A) kept mum on this very legal plea, which shows his contradictory approach.

Therefore the notice, reasons recorded assessment all are the illegal bad void ab-initio and barred by limitation and liable to be quashed.

3. Approval of 70 assessee's in one letter illegal: Further the ld. Add. CIT has given one consolidated approval of 70 assessee's through one letter dt. 24.03.2015 (PB7-8) and this show how the Add. CIT has act in formal way. On inspection of the assessment record it has also been come to know that there was no approval in original letter or documents. The document of approval was in the photocopy. And no tick on the name of the assessee by original pen there was only pencil tick(vide Sr. No. 54 PB8). And it is also appear that the approval has been given or reach in the office of the ld. AO after the 31.03.2021. Because the approval letter was not attached or with the reasons recorded, the same was much after the reasons recorded. This letter of approval is after the letter to OBC u/s 133(6) dt. 18.05.2015. How the approval can be given of all the 70 different assessee'sin one documents, all are the independent or separate assessee and reason are different. Thus it all shows how the wrong and illegal manner have been adopted by all the authorities. Therefore all the proceedings are illegal, invalid, void-ab-initio and liable to be quashed.

4. Hence in view of the above submissions the action taken u/s 148 and consequent proceedings may kindly be quashed."

9. On the other hand, the ld. DR has vehemently supported the orders of the Revenue authorities.

10. We have heard the ld. Counsels of both the parties and have perused the material placed on record. We have also deliberated upon the decisions cited in the orders passed by the authorities below as well as cited before

us and we have also gone through the orders passed by the revenue authorities. From perusal of the record, we noticed that this is the case of A.Y. 2008-09 and the notice u/s 148 of the Act has been issued on 24.03.2015 which is admittedly after expiry four years. In this case, four years has expired on 31.03.2013 and the notice u/s 148 of the Act has been issued on 24.03.2015. It is important to mention here that Section 151 of the Act provides that no notice shall be issued U/s 148 of the Act by an A.O. after expiry of a period of four years unless the PCIT or CCIT or CIT is satisfied. For ready reference, we reproduce Section 151 of the Act as under:

> "151(1)
> No notice shall be issued under **section 148** by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.
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> 151(2)
>
> In a case other than a case falling under section 151(1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.
>
> 151(3)
>
> For the purposes of sub-section (1) and sub-section (2), the Principal Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing officer about fitness or a case for the issue of notice under section 148, need not issue such notice himself."

From perusal of provisions of Section 151 of the Act, we observed that notice u/s 148 of the Act after four years can be issued only after obtaining satisfaction, sanction or approval u/s 151(1) from the CIT or Pr. CIT. However in the present case approval has not been taken from the Pr. CIT/CIT but the same has been taken from the Add.CIT Range-2, Jaipur admittedly.

11. It is important to mention here that ld. DR has submitted and desired to place the report of the Assessing officer on record and on the other side the ld. A/R has also submitted before the Bench to call the report from the A.O. After considering request of both the parties the Bench has directed to the ld. D/R to file the report of the Assessing officer and also to call the assessment record. Thereafter the ld. DR filed the report of the Assessing officer dated 09.04.2021 and assessment record. From perusal of the report of the A.O., we found that, as admitted by the Assessing Officer at page 1 of the assessment order, as also admitted in his report dated 09.04.2021 also copies of reasons recorded vide PB 1-3 of paper book. It was categorically admitted in its report that notice U/s 148 of the Act for the year under consideration i.e. A.Y. 2008-09 was issued after lapse of four years from the relevant assessment years and the approval for the year under consideration was accorded by the Addl.CIT, Range-2, Jaipur and not from the Pr.CIT/CIT. Admittedly, the competent authorities to

accord the approval as per Section 151 of the Act was Pr.CIT/CIT and not the Addl.CIT, therefore, issuance of notice U/s 148 and consequent assessment order passed are invalid, illegal and are liable to be quashed on the ground that same were not issued by the competent authority and thus stands quashed. While reaching this conclusion, we draw strength from the decision in the case of **Pr. CIT vs. N.C. CABLES LTD.(2017) 98 CCH 0018 Del HC**, wherein it has been held as under:

> "that *Reassessment—Issuance of Notice—Sanction for issue of Notice—Assessee had in its return for AY 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."*

12. Once, we quash the proceeding U/s 147 of the Act, therefore, there is no need to adjudicate the other grounds raised in this appeal.

13. In the result, this appeal of the assessee is allowed.

14. Now we take ITA No. 869/JP/2018 for the A.Y. 2009-10. In this appeal, the assessee has raised following grounds of appeal:

"1.1 The impugned order u/s 147/144 dated 05.12.2016 is bad in law and on facts of the case, for want of jurisdiction, barred by limitation and various other reasons and hence the same may kindly be quashed.

1.2 The action taken u/s 147 is bad in law and on facts of the case, for want of jurisdiction and various other reasons and hence the same may kindly be quashed.

1.3 The ld. AO has grossly erred in law as well as on the facts of the case in passing the Exparty Assessment order in gross breach of law without providing adequate and reasonable opportunity of being heard to the assessee. Hence the assessment so made and consequent addition so made may kindly be quashed and delete.

3.1 Rs.1,15,00,500/- : The ld. CIT(A) has grossly erred in law as well as on the facts of the case in sustaining the addition of Rs.1,15,00,500/- u/s 69A on account of cash deposit in the saving bank account. Hence the addition so made by the AO and confirmed by the ld. CIT(A) is being totally contrary to the provisions of law and facts on the record and hence the addition may kindly be deleted in full.

3.2 The ld. CIT(A) has also grossly erred in law as well as on the facts of the case in passing the order in gross breach of law without providing further adequate and reasonable opportunity of being heard to the assessee despite the admitted facts that an application was made to the ld. AO for obtaining documents from the assessment record, which have not been provided till date. Hence the assessment so made and consequent addition so made by the ld. AO and confirmed by the ld. CIT(A) may kindly be quashed and delete.

4. The ld. AO has grossly erred in law as well as on the facts of the case in charging interest u/s 234A,234B&234C,. The appellant totally denies it liability of charging of any such interest. The interest, so charged, being contrary to the provisions of law and facts, may kindly be deleted in full.

5. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.

The assessee has also raised revised or modified grounds of appeal and the same is as under:

"1.1 & 1.2. The impugned order u/s 147/144 dated 01/03/2016,as well as the action taken u/s 147/148 are bad in law, illegal, invalid, void ab initio on facts of the case, for want of jurisdiction, without proper approval and satisfaction of higher authorities u/s 151 of the Act and also barred by limitation and various other reasons and hence the same may kindly be quashed."

15. All the grounds and he revised/modified grounds No. 1.1. and 1.2 of the appeal raised by the assessee are interrelated and interconnected and relates to challenging the order of the ld. CIT(A) on the ground that impugned order u/s 147/144 dated 01/03/2016,as well as the action taken u/s 147/148 are bad in law, illegal, invalid, void ab initio on facts of the case, for want of jurisdiction, without proper approval and satisfaction of higher authorities u/s 151 of the Act and also barred by limitation, therefore, we thought it fit to dispose off by this consolidated order.

16. Facts, action of the A.O. as well as upholding the action of the A.O. by the ld. CIT(A) are identical to the facts and circumstances of the appeal for the A.Y. 2008-09.

17. The ld. AR appearing on behalf of the assessee has reiterated the same arguments as were raised before the ld. CIT(A) and also relied upon the written submissions filed before the Bench and the same is reproduced below:

> *GOA:1 : Invalid Action and proceedings initiated u/s 148:*
> *FACTS: The brief facts of the case are that the assessee is an individual having income from agriculture and labour. As informed at this time he is mentally disturbed. For the year he has not submitted his return of income not being the taxable income. Subsequently the AO on the basis of information after recording the reasons notice u/s 148 was issued on 29.03.2016. Notice has not served on the assessee. Thereafter the ld.AO has issued the notices u/s 142(1). The ld. AO has issued the notices time to time which has also not been complied.*
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> *The ld. AO has issued the notice U/s 148 on the reason that "As per AIR information the assessee has deposited cash of Rs.1,15,00,500/- in his SB a/c for the F.Y. 2008-09 relevant to A.Y. 2009-10 and the assessee has not filed his ITR for A.Y. 2009-10. The source of above cash deposit made by the assessee not verifiable"(PB10).*
>
> *In want of notices in the knowledge of the assessee, he could not make the compliances and the ld. AO in want of reply passed the assessment.*
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> *While making the addition the ld. AO has stated that in the assessee's case AIR data showed that the assessee had cash deposits to the tune of Rs.1,15,00,500/- in his SB account Vaishali Urban Co-op Bank Ltd Branch Shyam Nagar, Jaipur during the F.Y. 2008-09- relevant to A.Y. 2009-10. The assessee has not furnished any explanation with regard to the cash deposited in his bank account the same is treated as unexplained cash deposit within the meaning of Sec. 69A and made addition of*

Rs.1,15,00,500/-. And he has passed the assessment order u/s144/147 by assessing the income of the assessee at Rs.1,15,00,500/-.

In first appeal we have filed a letter to the ld. CIT(A) by praying that

"In this connection it is submitted that the above matter was decided exparty u/s 144 and to bring the correct facts and information before your honor inspection of the assessment record was necessary and the ld. AO has allowed the inspection of the assessment record just on 18.01.2019. On inspection of the assessment record we have come to know about some vital facts and technicalities. Hence we have applied for the certified copies of documents and record to the ld.AO on on 19.01.2019 copy of the same are enclosed. The assessee has not received those documents till date. And for the justice and to decided the matter on merit and on legal issue those documents are very necessary, because those documents are in the assessment record not with the assessee."

Also vide page3 para 5 of CIT(A) order. However the ld. CIT(A) has not accepted our pray and passed the order without any material. And confirmed the action of the ld. AO and also confirmed the additions made by the ld. AO. vide the observations of CIT(A) at page 5 and 10.

1. No approval from CIT or Pr. CIT u/s 151: As in the above case the notice u/s 148 issued after expiry four years and as per provisions of Sec. 151 notice after four years can be issued only after obtaining the sanction or approval u/s 151(1) from the CIT or Pr. CIT. And in the present case no approval has been given by the Pr. CIT . Because kindly see PB 7-8 where the ITO (T&J) has sent a letter to the Add. CIT Range-2, Jaipur, in this letter the ITO(T&J) has stated that" I am directed to convey the Pr. CIT's approval u/s 151(1) of the IT Act for issue of notice u/s 1487 in the above named cases." Thus the approval is not given by the Pr. CIT but the same is signed or given by the ITO (T&J) who is not competent authority.

Further the approval of 56 assessee's are given in one consolidated letter and in this letter the name of the assessee is at Sr. 46 and even there was not tick in the name of the assessee, in the file of the AO only there was photocopy of this letter no original letter. Which show no application of mind on the approval u/s 151.

The approval u/s 151 was issued and signed by the Ld ITO (T&J) (Pr. CIT-1, Jaipur) as it should have been signed by Hon'ble Pr.CIT himself who is Competent Authority. Thus, approval was not given by the competent authority and the proceedings based on such illegal approval

and consequential proceedings and order passed by the Id. AO are not valid and hence liable to be quashed.

Because the power and jurisdiction to issue the notice u/s 148 is given after obtaining the approval u/s 151 of the Act is provided under sec. 151 the said section which reads as under.

151(1): No notice shall be issued under section 148 by the AO , after the expiry of a period of four years from the end of the relevant assessment year unless the Pr. Chief CIT or Chief CIT or Pr. CIT or CIT is satisfied on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

1.2Thus for initiation of proceedings to issue the notice u/s 148 is the approval and satisfaction u/s 151 by the competent authority are the mandatory pre-condition. Undisputedly here the prescribed authority is the Hon'ble Pr. CIT and the satisfaction of the prescribed authority is a must before issuing the notice u/s 148 of the Act. Therefore, what is material and mandatory condition is the approval and satisfaction of the prescribed authority and non-else. In the case of assessee the impugned approval u/s 151 dated 29-03-2016 was signed by the ITO (T&J) and issued as per directions of the Hon'ble Pr.CIT (E). The same can be proved by the approval letter (PB7-8) to the issue and the same are reproduced as under.

" I am directed to convey the Pr. CIT's approval u/s 151(1) of the IT Act for issue of notice u/s 1487 in the above named cases."

Even there is no full signature nor date at the last page of approval, hence it is not clear when the approval was signed by the ITO(T&J). Further even no signature in-front of copy to :The AO concerned (ITO, Ward-2(4), Jaipur vide PB10

1.3 Our above contention is directly covered and fully supported by the recent decision of this Honble ITAT Jaipur Bench in the case of Modern School Society, Delhi vs CIT (Exemption), Jaipur in ITA no. 1118/JP/2016 dated 20.12.2017 vide para 10 page 12 to 21 of order (PB6 to 11 of case laws index). Where under the exactly same facts and circumstance the Honble Bench has quashed the order of CIT(E). And the same is also part of our WS and consider the same.

1.4 Further the department has also filled the MA in this case and the MA filed by the department has also been rejected by the Honble Bench on dt 24.07.2018 (MA no. 53/JP/2018).

1.5 Against the order of the Honble ITAT the department had filled appeal before the Honble Raj. High Court and the Honble Raj. High Court has dismissed the appeal of the Revenue vide order in CIT(E) v/s Modern School Society in DBIT No.172/2018 dated 31.07.2018.

1.6 Thereafter, against the order of the Honble Raj. High Court the department had also filled SLP before the Honble Supreme Court and the Honble Supreme Court has also dismissed the SLP of the Revenue vide order in CIT(E) v/s Modern School Society in SLP(C) No.5241/2019 dated 18.02.2019.

1.7 Thus the issue on the legality of Notice is directly covered and has been affirmed, confirmed, settled and decided by the Honble Supreme Court and now there remains nothings and covered matter.

Here is the same principal is applicable. Hence the issuance the notice 148 and consequent assessment order passed is invalid, illegal void ab-initio and liable to be quashed. Because this is the case of for A.Y. 2009-10 and four years has expired on 31.03.2014 and the notice u/s 148 has been issued on dt. 29.03.2016.vide page 1 para 2 of the assessment order. Also vide copy of reasons recorded(PB1-3) and approval u/s 151 (PB10-11)

1.8.1On this preposition kindly refer direct decision of the Honble Raj. High Court judgments in case of Dhadha Exports V/s ITO 377 ITR 347(Raj.) wherein it has been held "Dispute pertains to assessment year 2007-08. The notice under Section 148 of the IT Act has been issued to the petitioner-assessee beyond expiry of four years after the end of the relevant assessment year. Proviso to Section 151 (1) of the IT Act in this connection stipulated at the relevant time that no such notice itself be issued after the of four years from the end of the relevant assessment year unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid that it is a fit case for the issue of such notice. Subsequently by amendment inserted by the Finance (NO.2) Act, 2014 with effect from 01.06.2013 the Principal Chief Commissioner and Principal Commissioner, apart from Chief Commissioner and Commissioner, have also been inserted as the competent authority to grant such sanction. However, sanction letter dated 27.03.2014, which Income Tax Officer has relied and supplied to the petitioner-assessee,

vide communication dated 02.01.2015, has been issued by Joint Commissioner, Income Tax, Range-I, Jaipur.(para 9)

Delhi High Court in CIT Vs. SPL's Siddhartha Limited, has while holding that when a particular authority has been designated to record his/her satisfaction on any particular issue, then it is that authority alone who should apply his/her independent mind to record his/her satisfaction and satisfaction so recorded should be 'independent' and not 'borrowed' or 'dictated' satisfaction, rejected contention of the revenue that obtaining approval from the authority other than the one who was competent to grant such approval, was mere irregularity committed by the Income Tax Officer. And that it was rectifiable under Section 292B of the IT Act cannot be accepted as such irregularity is not curable under Section 292B. para 11)

Resort to Section 292B of the IT Act cannot be made to validate an action, which has been rendered illegal due to breach of mandatory condition of the sanction on satisfaction of Chief Commissioner or Commissioner under proviso to sub-section (1) of Section 151. This is an inherent lacunae affecting the very correctness of the notice under Section 148 and is such which is not curable by recourse to Section 292B of the IT Act.

1.8.2 Also refer Ghanshyam K. Khabrani v/s ACIT 346 ITR 443(Bom.) and

1.8.3 In the case of CIT V/s SPL's Siddhartha Ltd 345 ITR 223(Del). Reassessment—Sanction for issue of notice u/s 151(1)—AO issued notice u/s 147 read with S. 148 for reopening assessment after expiry of four years from end of relevant assessment year, which was subsequently set aside by ITAT on ground that requisite approval of Additional CIT, which is mandatorily required, was not taken—Held, AO was required to take approval of Competent Authority u/s 151 (1)—AO had specifically sought approval of Commissioner only—Therefore, it cannot be said that the Joint Commissioner/Additional Commissioner had granted the approval—Further, even though the file was routed through Additional Commissioner, he did not apply his mind or gave any sanction—Instead, he requested Commissioner to accord the approval—It, thus, cannot be said that it is an irregularity curable u/s. 292B—If a statutory authority has been vested with jurisdiction, he has to exercise it according to its own discretion—If discretion is exercised under direction or in compliance with some higher authorities instruction, then it will be case of failure to exercise discretion altogether—Therefore, the Tribunal has rightly decided the legal aspect.

1.8.4In the case of CIT vs. Soyuz Industrial Resources Ltd.(2015) 232 TAXMAN 0414 (Delhi HC)held Reassessment—Sanction for issuance of notice—Assessee had filed its returns in a normal course and assessment was framed u/s 143(1)—Based upon information received by AO, a satisfaction note was recorded and a notice was issued beyond four years from the end of the assessment year, under proviso to s 147(1)—Reassessment proceedings were completed—Assessee claimed that the notice u/s 147 was unsustainable because it was not approved by the competent authority in accordance with Section 151—CIT(A) sanctioned re-assessment proceedings through issuance of notice u/s 148—ITAT's allowed assessee's appeal by holding that the CIT lacked the authority to sanction re-assessment proceedings through issuance of notice u/s 148—Held, Privy Council in Nazir Ahmad V. Emperor had laid down that if the statute mandates that something be done in a particular manner, it should be in that manner or not at all—Thus, it was not court's job to render, in the process of interpretation, an entire provision academic or inoperative—As per Section 151, in case the original assessment was completed "other than" i.e. otherwise than u/s 143(3) or during the course of re-assessment proceedings, competent authority would be the Joint Commissioner—Instant Court had to give effect to plain words of the statute which unambiguously stated that the competent authority in such cases was the Joint Commissioner and not the Chief Commissioner or the Principal Commissioner—Since the original assessment was completed "other than" the eventualities contemplated in Section 151(1), i.e. it was processed u/s 143(1), thus, clearly Section 151(2) would be applicable—No infirmity was found in the order of the ITAT—Revenue's appeal dismissed.

1.8.5In the case of Pr. CIT vs. N.C. CABLES LTD.(2017) 98 CCH 0018 DelHC held that Reassessment—Issuance of Notice—Sanction for issue of Notice—Assessee had in its return for AY 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.

2. Approval of 56 assessee;s in one letter illegal: Further the ld. Pr. CIT has given one consolidated approval of 56 assessee's through one letter dt. 29.03.2016 (PB7-8) and this show how the PR. CIT has act in formal way. On inspection of the assessment record it has also been come to know that there was no approval in original letter or documents. The document of approval was in the photocopy. And no tick on the name of the assessee. And it is also appear that the approval has been given or reach in the office of the ld. AO after the 31.03.2021. Because the approval letter was not attached or with the reasons recorded, the same was much after the reasons recorded. How the approval can be given of all the assessee in one documents, all are the independent or separate assessee and reason are different. Thus it all shows how the wrong and illegal manner have been adopted.

3. No Satisfaction or application of mind by the Add. CIT and Pr. CIT: Further on perusal of the reason recorded and approval u/s 151 by the competent authority it is clearly proved that they have not applied their mind on the reasons recorded they have only expressed or mentioned "yes" on the reason forwarded while as per decision of Pr. CIT vs. N. C. Cables Ltd.(2017) 98 CCH 0010 Del HC it has been 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. The mere appending of the expression 'approved' says nothing. It is not as if the CIT has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the 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 officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be disturbed.

Here is also the same position copy of reason recorded is enclosed(PB10-11) because no satisfaction by the ld. Pr. CIT or ld. Add. CIT.

Also refer Maruti Clean Coal And Power Ltd. vs. ACIT (2018) 400 ITR 0397 (Chhattisgarh)

In the case of CIT vs. S. Goyanka Lime & Chemicals Ltd. (2015) 231 TAXMAN 0073 (MP) it has been held that While according sanction, the Joint Commissioner, Income Tax has only recorded so "Yes, I am satisfied" If the case in hand is analysed on the basis of the aforesaid principle, the mechanical way of recording satisfaction by the Joint Commissioner, which accords sanction for issuing notice under section 147, is clearly unsustainable and we find that on such consideration both the appellate authorities have interfered into the matter. In doing so, no error has been committed warranting reconsideration.(para 7)

As far as explanation to Section 151, brought into force by Finance Act, 2008 is concerned, the same only pertains to issuance of notice and not with regard to the manner of recording satisfaction. That being so, the said amended provision does not help the revenue. No question of law involved in the matter, warranting reconsideration appeals are, therefore, dismissed.

Also refer PAC AIR SYSTEMS P. LTD. vs. ITO (2020) 58 CCH 0001 Del Trib it has been held that Reassessment—Income escaping assessment—Assessee filed present appeal challenging order of CIT(A) wherein, AO's action was accepted—Assessee contended that AO had erred in assumption of jurisdiction u/s 147/148 based on invalid and mechanical approval granted by Addl. CIT—Held, approval granted by Addl. CIT was a mechanical and without application of mind, which was not valid for initiating re-assessment proceedings, because from said remarks, it was not coming out as to which material; information; documents and which other aspects went gone through and examined by Addl. CIT for reaching to satisfaction for granting approval—Thereafter, AO had mechanically issued notice u/s 148—Reopening in assessee's case for AY in dispute was bad in law and deserved to be quashed—Approval granted by Addl. CIT was a mechanical and without application of mind, which was not valid for initiating reassessment proceedings issue of notice u/s 148 and was not in accordance with s. 151 thus, notice issued u/s 148 was invalid and accordingly, reopening in this was bad in law and therefore, same was hereby quashed—Assessee's appeal partly allowed.

In the case of GORIKA INVESTMENT AND EXPORT (P) LTD. vs. ITO (2018) 53 CCH 0168 Del Trib Reopening—Income escaping assessment—Validity thereof—Assessee filed return of income declaring income which

was processed u/s. 143(1)—AO issued notice u/s. 148 after recording reasons that income of assessee had escaped assessment—AO framed assessment u/s. 143(3) r.w.s. 147 by making addition—CIT(A) upheld order of AO—Held, in CIT Vs N.C. Cables Ltd., it was held 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—Satisfaction had to be recorded of given case which could be reflected in briefest possible manner—Exercise appears to had been ritualistic and formal rather than meaningful, which was rationale for safeguard of approval by higher ranking officer—AO initiated proceedings u/s. 147 r.w.s. 148 on basis of information furnished by Directorate of Investigation Unit and CIT gave approval without applying his mind in slip-shod manner—As approval/sanction given by CIT was without recording satisfaction, reopening was not sustainable—Assessee's appeal allowed.

TARA ALLOYS LTD. vs. ITO (2018) 63 ITR (Trib) 0484 (Delhi)Reassessment—Income escaping assessment—Validity thereof—Case of assessee was selected for scrutiny as per provisions of section 147 and 151 and accordingly notice u/s 148 was issued to assessee—Proceedings u/s 147/148 were initiated after recording reasons on basis of information received from Investigation Wing of Department on basis of search and seizure operation—During course of assessment proceedings, assessee was specifically asked to explain and justify transaction with G received as share application money/share capital and why same should not be disallowed or added in income of assessee—AO held that it was camouflage just to introduce its own fund through entry operator therefore amount was added in income of assessee company as unexplained u/s 68—CIT(A) confirmed reassessment and addition made by AO of share capital and unexplained cash credit—Held, notice u/s 148 could be quashed if 'belief' was not bona fide or one based on vague, irrelevant and non-specific information—Basis of belief should be discernible from material on record which was available with AO when he recorded reasons—There should be link between reasons and evidence/material available with AO—Commissioner had simply affixed "approved" at bottom of note sheet prepared by ITO technical—ITO could not have had reason to believe that income had escaped assessment by reasons of assessee 's failure to disclose material facts and if Commissioner had read report carefully he could not have come to conclusion that this was fit case for issuing notice u/s 148—Commissioner had simply put "approved" and signed report thereby giving sanction to AO—Nowhere Commissioner had recorded satisfaction note, not even in brief after applying his mind—After expiry of four years from end of relevant assessment year, notice u/s 148 should not be issued unless Commissioner was satisfied that it was fit case for issue of such

notice—Reassessment proceedings and notice being bad in law were quashed—Assessee's appeal allowed.

And the ld. CIT(A) kept mum on this very legal plea, despite deciding the case on legal issue also, which shows his contradictory approach.

Therefore the notice, reasons recorded, assessment all are the illegal bad void ab-initio and barred by limitation and liable to be quashed.

4. No income escaped: It is submitted that the notice u/s 148 can be issued only when there is any escape of income because S. 147 provides that If the Assessing Officer has reason to believe that an income chargeable to tax has escaped assessment for any assessment year, here the assessee has not escaped any income because the assessee has deposited cash in the bank account out of income received on the sale agreement of agriculture land in the year of 2005. Which shows that there was no escapement of income by the assessee. Hence if there is neither the escapement of income by the assessee nor proved then the notice issued u/s 148 is invalid.

5. Reason to believe and not reason to suspect:
5.1It is further submitted that even under the amended law by the finance act 1989 the condition precedent or words, which continues right since inception till date, are "reason to believe" and not "reason to suspect". The word "believe" has to be understood in contradistinction of suspicion or opinion. Belief indicates something concrete or reliable. Kindly refer Gangasharan & Sons Pvt. Ltd. 130 ITR 1 (SC), and ITO v. Lakhmani Mewal Das, (1976) 103 ITR 437 (SC).

5.2The belief of the Officer should be as to escapement of income and the belief should not be a product of imagination or speculation. There must be reason to induce the belief. The Court can always examine this aspect though the declaration or sufficiency of the reasons for the belief cannot be investigated by the Court (Sheo Nath Singh v. AAC, (1971) 82 ITR 147 (SC).

In the case of Mukesh Modi &Ors. vs. DCIT 366 ITR 418 (Raj) held that Evasion of tax was menace to society but Assessee contributing to the exchequer in form of tax could not be allowed to suffer on mere pretence that it had evaded payment of tax. Rowing and fishing enquiry in hands of AO on mere suspicion or change of opinion could not satisfy expression "reason to believe" exposing Assessee for reopening of assessment. Notice for reopening of assessment was not in consonance and in conformity with under Section 147 and made specified notice vulnerable. High Court pointed that, reasons given by AO for issuance of notice for

Re-assessment were not plausible and convincing. In fact order, where objections were rejected by AO, was not self-contained speaking order. Upon perusal of the order, it was amply clear that the same contains conclusions and is bereft of reasons.(para 12)

Notices issued to Assessee by AO under Section 147/148 were not satisfying the pre-requisites for same. There was no whisper in the notice, or iota of proof that while issuing same. AO had reason to believe that any income chargeable to tax had escaped assessment for the assessment year. Notice issued by AO simply for his own verification and to clear his doubts and suspicions to re-examine the material which were already available on record at time of passing of t earlier assessment orders. The legislature under Section 147 has not clothed AO with such jurisdiction therefore the action could not be upheld in the background of facts of instant case. One more redeeming fact which had direct nexus with the subsequent re-assessment proceedings and ramification of the same had culminated into re-assessment orders was the impugned order where AO rejected the objections submitted by Assessees pursuant to notice under Section 147/148. Order passed by AO in this behalf was not a speaking order which could not be sustained. In view of legal infirmity in the notice under Section 147/148 and laconic order of AO while rejecting objections Assessee the consequential assessment Orders were liable to be annulled.(para16).

Therefore all the proceedings are illegal invalid void ab initio and liable to be quashed.

6. Hence in view of the above submissions the action taken u/s 148 and consequent proceedings may kindly be quashed.

GOA-2: Addition of Rs.1,15,00,500/- on account of cash deposits in the bank account

FACTS: The brief facts kindly refer facts of GOA-1

In first appeal the ld. CIT(A) has confirmed the order and finding of the ld.. Hence this appeal.

SUBMISSIONS :

1. Atthe very outset it is submitted that admittedly the ld. AO has made the addition on account of cash deposits of Rs.1,15,00,500/- in the bank Vaishali Urban Co-op bank Ltd Shyam Nagar Jaipur in the F.Y. 2008-09 relevant to A.Y. 2009-10 vide page 2 para 1 of the assessment order.

2. Source of cash deposits in the bank account established: As the assessee has deposited cash of Rs.1,15,00,500/- during the year in the Bank (PB3) on various dates. As the ld. AO himself has made inquiry u/s 133 from the bank and M/s Rangroop Builders Pt. Ltd.. On inquiry it has been proved that the assessee was having agriculture land. On 25.03.2005 he has made an agreement to sale of his agriculture land for Rs.1,65,00,000/- to M/s Rangrup Builders Pvt. Ltd. vide sale agreement (PB17-20) out of the above amount he had received Rs.1,15,00,000/- through various cheques vide details at (PB19-20).

Thereafter he withdrawn the cash. As the sale agreement has been cancelled, hence assessee has to return the sale agreement amount to the M/s Rangroop Builders Pvt. Ltd. Hence he has again deposited that cash amount in his bank and issued the cehques to M/s Rangroop builders. Thus when the ld. AO himself made the inquiry and details and the same has not been disproved rather accepted, despite he made the additions in the hands of the assessee. The reply of the M/s Rangroop Builders filed u/s 133(6) to the ld. AO with details are enclosed at (PB12-22), when the ld. AO has not taken any action against M/s Rangroop Builders Pvt. Ltd and he has not speak a single word on these vital evidences in the assessment order. Which shows the contradictory approach of the ld. AO.

Thus when the ld. AO himself collected the evidence of the cash deposits with the help of documentary evidences and he has not doubted in any manner or type. Then how the addition can be made blindly in the hands of assessee.

3.Alternatively and without prejudice to the above and at the worst although not required may direct to the ld. AO to make further inquiry and opportunity to the assessee to explain the same. As the ld. AO despite having details in his hand not tried to bring proper evidences on record.

4. However the ld. AO has not rebutted these evidence with the help of any documentary evidences or material rather proceeds his own presumption, assumption and suspicion. Whether any addition can be made without any basis or material. Without proving the same no addition can be made only on the assumptions, presumptions or guess work. And looking to the record and assessment order it is very clear that the ld. AO has proceeded only suspicion, without any cogent material evidence. It is settled principle of law that an allegation remains a mere allegation unless proved. Suspicion cannot take the place of reality, are the settled principles kindly refer Dhakeshwari Cotton Mills 26 ITR 775 (SC) also refer R.B.N.J. Naidu v/s CIT 29 ITR 194 (Nag), Kanpur Steel Co. Ltd. v/s CIT 32 ITR 56 (All).Also refer CIT v/s KulwantRai 291 ITR 36(Del). In CIT v/s Shalimar BuildwellPvt Ltd 86 CCH 250(All) it has been held that the AO

made the addition merely on suspicion which was not desirable in the eye of law.

5. Hence in view of the above facts, circumstances and legal position entire addition may kindly be deleted in full.

GOA-3 Charging of Interest u/s 234B:

FACTS AND SUBMISSIONS: The ld. AO has grossly erred in law as well as on the facts of the case in charging the interest u/s 234 and as per law and settled legal position in this case no interest can be charged u/s 234B and liable to be deleted.

18. On the other hand, the ld. DR has vehemently supported the orders of the authorities below and also relied upon decisions in the case of CIT Vs Uttam Chand Nahar 295 ITR 403 (Raj) and ITO Vs Mahadeo Lal Tulsian, 110 ITR 786 (Kol).

19. We have considered the rival contentions of both the parties and perused the material available on record. From perusal of the record, we observed that the A.O. has reopened the case of the assessee for escaping the income of Rs.1,15,00,500/- on account of cash deposit in his bank account and assessee has not filed his return of income and issued notice u/s. 148 of the Act on 29.03.2016 after recording reasons that income of assessee had escaped assessment in the meaning u/s 147 of the Act. Thereafter the AO framed assessment u/s. 144 r.w.s. 147 of the Act by making addition of Rs.1,15,00,000/- and the ld. CIT(A) upheld the order of AO. Before us the ld. A/R has drawn our attention to the reasons recorded and satisfaction of the Pr. CIT and Addl. CIT placed at page No. 10-11 of

the assessee's paper book where the Addl. CIT has mentioned only "Recommended" and Pr. CIT has mentioned only "Yes", which shows no application of mind and proper satisfaction by them on the reasons recorded by the AO. In this regard, we draw strength from the decison in the case of **Pr. CIT vs. N. C. Cables Ltd.(2017) 98 CCH 0010 Del HC wherein** it has been 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. The mere appending of the expression 'approved' says nothing. It is not as if the CIT has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the 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 officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be disturbed."*

We also draw strength from the decision in the case of **CIT vs. S. Goyanka Lime & Chemicals Ltd. (2015) 231 TAXMAN 0073 (MP) wherein it has been held that** While according sanction, the Joint Commissioner, Income Tax has only recorded so "**Yes, I am satisfied**" If the case in hand is analysed on the basis of the aforesaid principle, the

mechanical way of recording satisfaction by the Joint Commissioner, which accords sanction for issuing notice under section 147, is clearly unsustainable and we find that on such consideration both the appellate authorities have interfered into the matter. In doing so, no error has been committed warranting reconsideration.

20. The ld. A/R has also drawn our attention on the approval of the Pr. CIT placed at page Nos. 7-8 of the paper book and also from the assessment record placed before us, we found that he has given one consolidated approval of 56 different assessee's in one shot through one letter dated 29.03.2016 which is even not signed by him but signed by ITO (T&J), who is not a competent authority to give and signed the approval letter, which shows how the PR. CIT has acted in very formal way. When we examined of the assessment record, it is gathered that the approval was in photocopy and not in original or there was no original letter or documents of approval. Further the name of the assessee was at Sr. 46 out of 56 assessee's and even there was no tick on the name of the assessee in the approval list, which creates a doubt that the approval has been received before the issue of notice u/s 148 of the Act as the approval letter lying on the file after issuance of the notice u/s 148 or not before or attached with the notice u/s 148 and may reach in the office of the AO after 31.03.2016. Thus, in our view, approval u/s 151 cannot be given of all

the 56 assessee's in a single documents, as all assessee's are the independent and separate also the reason recorded are different in each case and it is not possible that there shall be same reasons. Looking to these facts and record it is also held that the procedures and way of approval and satisfaction is not proper. Here AO initiated proceedings u/s. 147 r.w.s. 148 on basis of information furnished and CIT gave approval without applying his mind in slipshod manner. As approval/sanction given by CIT was without recording his own independent satisfaction as noted above, therefore the reopening was not sustainable as per above judicial pronouncements and irregularities noted. There were clear irregularities and violation of the provision of Sec. 151 of the Act and very foundation of the issuance of the notice u/s 148 was not as per law. Then in that eventuality, we are of the view that the issuance notice 148 of the Act and all the consequent proceedings and assessment order passed was not in accordance with law. The case laws relied upon by the ld. DR are not tenable in the facts and circumstances of present case, therefore, considering the totality of facts and circumstances of the case as well as the judicial pronouncements qua the issue under consideration, we find merit in the contention of the ld AR, therefore, we quash the proceedings U/s 147 of the Act.

21. Once, we quash the proceeding U/s 147 of the Act, therefore, there is no need to adjudicate the other grounds raised in this appeal.

22. In the result, both these appeals of the assessee are allowed.

Order pronounced in the open court on 15th Septemeber, 2021.

Sd/-	Sd/-
(विक्रम सिंह यादव)	(संदीप गोसाईं)
(VIKRAM SINGH YADAV)	(SANDEEP GOSAIN)
लेखा सदस्य / Accountant Member	न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 15/09/2021
*Ranjan
आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Satya Narayan Bairwa, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-2(4), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 867 & 869/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar