

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA BENCH "A", KOLKATA**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER  
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.893/Kol/2018  
Assessment Year: 2007-08**

<b>Andaman And Nicobar Island Integrated Development Corporation Ltd.</b>  Port Blair, Andaman And Nicobar Island  <b>PAN: AACCA4070B</b>  (Appellant)	Vs.	<b>DCIT, Port Blair</b>         (Respondent)
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**Present for:**

Appellant by : Shri Akkal Dudhewala, AR  
Respondent by : Smt. Ranu Biswas, Addl. CIT-DR.

Date of Hearing : 20.12.2021  
Date of Pronouncement : 09.02.2022

**ORDER**

**PER RAJESH KUMAR, ACCOUNTANT MEMBER:**

The present appeal has been preferred by the assessee against the order passed u/s 143(3)/147 of the Income Tax Act (hereinafter referred to as the 'Act') by the Commissioner of Income Tax(Appeals)-1, Kolkata (hereinafter referred as the 'CIT') relevant to A.Y 2007-08.

2. The assessee has challenged the order of the CIT(A) upholding the order of Assessing Officer on the legal issue as well as on merits. The legal issue raised by the assessee is that the assessment framed u/s 143(3)/147 of the Act dated 27.02.2015 is bad in law as the same is reopened after expiry of four years from the end of the relevant assessment year without there being any failure on the part of the assessee to disclose any material fact with respect to assessment of income.

3. The Id. AR submitted that undisputedly the reopening has been made after expiry of four years from the end of relevant assessment year and therefore, the reopening could only be made u/s 147 of the Act after the conditions laid down in the 1<sup>st</sup> Proviso to section 147 of the Act are satisfied. The Id AR argued that the proviso provides that where there is an assessment has been framed u/s 143(3) of the Act, no action shall be done only under this Act after expiry of four year from the end of relevant assessment year unless the income chargeable to tax has escaped assessment by reason of failure on the part of the assessee to disclose fully and truly all material facts for assessment of income in that assessment year. The Ld. AR submitted that the assessment was already framed in this case u/s 143(3) vide order dated 27.11.2009 assessing a total income of Rs.7,07,34,340/- and therefore to reopen the assessment without following the provisions as provided in the 1<sup>st</sup> Proviso to section 147 of the Act would render the reassessment without jurisdiction. The Ld. AR submitted that order of CIT(A) upholding the reopening of assessment is ,therefore, wrong and may kindly be reversed by holding that the reassessment proceedings as well as consequent order is being invalid, non-est.

3. On the issue on merit of addition, the Ld. AR submitted that the addition made u/s 40(a)(ia) of the Act of Rs.262.95 lakhs for non-deduction of tax was in fact wrong and against facts on record. The Ld. AR submitted that the assessee had duly deposited the amount of TDS in the Government account well within time , however due to typographical mistake the assessment year was wrongly mentioned in the challan resulting into non-mentioning of the same in the TIN system. The Id. AR submitted the said mistake was rectified and necessary evidences are filed in the paper book. The Ld. AR also referred to the rectified/corrected challans filed in the paper-book and submitted that even on merits, addition made by the Assessing Officer and sustained by the CIT(A) cannot be justified. The Ld. AR therefore prayed that on legal issue as well as merit, the order of the CIT(A) may kindly be reversed

and appeal of the assessee may kindly be allowed on legal as well as merit of the case.

4. The Ld. DR, on the other hand, relied on the order of the CIT(A) by submitting that though there was mistake of mentioning of assessment year in the challans of TDS which was admittedly deposited by the assessee on the Government account before due date however, due to wrong mentioning of the assessment year, the same was not displayed in TIN System. The Ld. DR submitted that since the mistake has been rectified and corrected challan has been placed on record, the same may be referred back to the file of Assessing Officer for necessary verification and the Assessing Officer may allow the claim of the assessee after verification of the corrected challans.

4. After hearing the rival submissions and perused the relevant records. We find in this case, the reopening was made after period of four years on the end of relevant assessment year. The assessment u/s 143(3) was framed vide order dated 27.02.2015 and therefore, we find merit in the pleadings of the Ld. AR that reopening has to be made in terms of stipulation of 1<sup>st</sup> Proviso to section 147. We find that in the present case the Assessing Officer as well as CIT(A) failed to demonstrate any failure on the part of the assessee to fully and truly disclose the material facts for the income which is related in the assessment of income. After perusal of the records before us, we find that there was a mistake of mentioning the correct assessment year while deducting the TDS and therefore, the tax deducted at sources by the assessee did not get displayed on the TIN system which was got rectified later on and the TDS deducted appeared correctly in the TIN system of the assessee. Under the circumstances, we are of the considered view that reopening has been made without satisfying the conditions as envisaged in the 1<sup>st</sup> Proviso to section 147 of the Act. Even on merits, the assessee has fool proof case. In our opinion that no meaningful purpose would be served except wastage of time and resources. Accordingly we set aside the order of

the CIT(A) by holding that the reopening has not been validly made and the reassessment proceedings and consequent assessment framed is quashed.

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

**Order pronounced in the open court on 09.02.2022.**

**Sd/-**  
**(SANJAY GARG)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(RAJESH KUMAR)**  
**ACCOUNTANT MEMBER**

Kolkata, Dated: 09.02.2022.  
RS

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Kolkata  
The CIT (A) Concerned, Kolkata  
The DR Concerned Bench

//True Copy//

By Order

Sr. Private Secretary/DDO  
ITAT, Kolkata Benches, Kolkata