

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI**

**Before Sh. Kul Bharat, Judicial Member  
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 320/Del/2020 : Asstt. Year: 2012-13**

Narender Kumar, S/o- Sh. Raghunath, Village-Nathupur, Tehsil-Rai, Sonipat, Haryana-131001 (APPELLANT)	Vs	Income Tax Officer, Ward-2, Sonipat, Haryana-131001 (RESPONDENT)
<b>PAN No. BITPK0477R</b>		

**Assessee by : Sh. Suresh Gupta, CA  
Revenue by : Sh. Raghunath, Sr. DR**

<b>Date of Hearing: 20.09.2023</b>	<b>Date of Pronouncement: 21.09.2023</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by assessee against the order of Id. CIT(A), Rohtak, dated 01.11.2019.

2. The assessee has taken the following additional grounds pertaining to reopening of the case u/s 148 of the Act:

*"1. On the facts and in the circumstances of the case and also in law, the ITO, Ward-5, when return in response to notice u/s 148 was admitted filed on 25.01.2016, the notice u/s 143(2) is issued on very same date i.e. 25.01.2016 which shows non-application of mind in issuing notice u/s 143(2) and thereafter assuming jurisdiction to frame assessment on the basis of such a notice is not tenable in law and therefore impugned proceedings need be quashed."*

2. *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 fact that the proceedings have been initiated by the AO without conduct any enquiry on the material on record which shows reopening without applying independent mind. In view of the above defects in the compliances the resultant reassessment proceedings are required to be set aside."*

3. Heard the arguments of both the parties and perused the material available on record.

4. For the sake of brevity and ready reference, the entire reasons recorded by the AO are reproduced as under:

"Address of the assessee : NARENDER KUMAR  
S/OSH.RAGHUNATH,  
H.NO. 539,  
VILLAGE NATHUPUR,  
SONEPAT(HARYANA)

PAN : BITPK0477R

Assessment Year : 2012-13/P2-19

Reasons to issue notice u/s 148

*As per information available in this office, the assessee has made various CIB/AIR transactions totaling to Rs.37,88,50,000/- during the financial year relevant to the assessment year 2012-13.*

2. *As per records, the assessee has not filed his return of income for the assessment year and source of the investment has not been submitted. Therefore, I have reasons to believe that amount to the tune of Rs.37,88,50,000/- is chargeable to tax which has escaped assessment and also any other income chargeable to tax which comes to the notice subsequently during the course of proceedings, will also be escaped assessment for the assessment year 2012-13. Hence, issue notice u/s 148 for the assessment year 2012-13.*

Sd/-

(A.P.LAKHINA)  
INCOME-TAX OFFICER,  
Ward-5, SONEPAT."

5. During assessment proceedings, the issues examined by the Assessing Officer were only of sale of agricultural land of Rs.67,76,000/-, cash deposit of Rs.19,00,000/- in the bank account and cash in hand of Rs.4,75,000/-. The Revenue was posed a direct question as to whether there were any reason to believe that AIR information received pertaining to transaction worth Rs.37.88 crores were, in fact, reliable or not, whether any examination of the information received from AIR as to these transactions pertain to sale, purchase, cash deposits or undisclosed income from any other sources. The revenue has not even primarily examined as to what the information pertaining to Rs.37.88 crores as received from CIB/AIR. It was submitted that as per record, no examination has been conducted to verify whether the said transactions worth Rs.37.88 crores indeed have taken place or not. From the entirety of the events, we find that there has not been any tangible material before the AO nor any information pertaining to the transactions of the alleged amount of Rs.37.88 crores to arrive at the reasons to believe by the Assessing Officer that such amount has been escaped assessment. There has been no reasons to believe that these amounts pertain to the investment made by the assessee as alleged by the Assessing Officer. Hence, the reasons recorded and the consequent notice issued u/s 148 of the Income Tax Act, 1961 by the ITO cannot be held to be legally valid. Ergo, the assessment made is invalid.

6. In the result, the appeal of the assessee is allowed.  
Order Pronounced in the Open Court on 21/09/2023.

Sd/-

**(Kul Bharat)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 21/09/2023**

\*Subodh Kumar, Sr. PS/dk\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**