

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.3022/Del/2022
Assessment Year 2015-16

VRP Telematics (P) Ltd. 4, IIIrd Floor, Shankar Vihar Vikas Marg, I.P. Extension, Delhi.	Vs.	DCIT, Central Circle Meerut
TAN/PAN: AACCV5763A		
(Appellant)		(Respondent)

Applicant by:	Shri Lalit Mohan, Chartered Accountant		
Respondent by:	Shri Amit Katoch, Sr.DR		
Date of hearing:	09	04	2024
Date of pronouncement:	19	04	2024

ORDER

PER PRADIP KUMAR KEDIA - A.M.:

The captioned appeal filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-IV, Kanpur ('CIT(A)' in short) dated 23.11.2022 arises from the assessment order dated 24.03.2022 passed by the Assessing Officer (AO) under Section 143(3) r.w. Section 147 of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. When the matter was called for hearing, the Id. counsel for the assessee at the outset adverted to Ground no.2.6 of the grounds of appeal whereby a legal contention has been raised towards absence of valid approval to be obtained under Section 151 of the Act for initiation of proceedings under Section 147 of the Act. The Id. counsel pointed out that the assessment for A.Y. 2015-16 was earlier concluded under Section 143(3) r.w. Section 153C of the Act vide

order dated 30.12.2014. Thereafter, notice dated 30.03.2021 was issued under Section 148(1) of the Act seeking to reopen the completed assessment of the assessee to assess certain unexplained cash credit aggregating to Rs.1,45,00,000/-. The ld. counsel adverted to the aforesaid notice issued under Section 148 of the Act to submit that as per such notice, the approval of Additional / Joint Commissioner of Income Tax, Central Circle, Meerut has been admittedly obtained for issuance of such notice in terms of Section 151 of the Act. This fact of approval of Additional Commissioner of Income Tax as per provisions of Section 151 of the Act for issuance of notice under Section 148 has also been reiterated in the last paragraph of the reasons recorded under Section 148(2) of the Act.

3. In this backdrop, the ld. counsel adverted to the provisions of Section 151 of the Act and contended that in terms of Section 151 of the Act, the competent authority for approval in the instant case as per the erstwhile provision of Section 151 is Principal Chief Commissioner of Income Tax/ Chief Commissioner of Income Tax Principal Commissioner of Income Tax/ Commissioner of Income Tax since the notice under Section 148 has been issued after the expiry of a period four years from the end of Assessment Year 2015-16. The approval of Additional Commissioner obtained in the present case does not satisfy the requirement of Section 151 of the Act. The ld. counsel thus contended that the entire proceedings culminating in the impugned re-assessment order without proper sanction of the competent authority is non-est and bad in law and thus requires to be quashed at threshold without going into the merits of the case.

4. The ld. DR for the Revenue could not present any different view in the matter but relied upon the case records.

5. We have carefully considered the rival submissions and the perused the material available on record.

6. A reference to the notice under Section 148(1) dated 22.07.2021 and reasons recorded under Section 148(2) has been made on behalf of assessee to the effect that in the instant case the approval has been wrongly obtained from lower authority, i.e., Additional Commissioner of Income Tax under Section 151 of the Act while initiating re-assessment proceedings under Section 147 of the Act instead of proper approval of the superior authority, namely, Principal Chief Commissioner of Income Tax / Chief Commissioner of Income Tax / Principal Commissioner of Income Tax / Commissioner of Income Tax for this purpose under Section 151 of the Act due to lapse of 4 years from the end of A.Y. 2015-16 at the time of issue of reopening notice.

7. It is an admitted position that 4 years has elapsed from the end of the A.Y. 2015-16 at the time of issue of notice under Section 148 of the Act. Consequently, the approval of Additional Commissioner of Income Tax under Section 151 of the Act obtained by AO instead of approval the superior authorities named in the erstwhile provisions of Section 151 of the Act does not meet the requirement of law and consequently the approval granted under Section 151 is nonest in the eyes of law. The erstwhile provisions of Section 151 postulates permission of Pr.CCIT/CCIT/Pr.CIT/CIT before issuance of notice under Section 148 of the Act after the lapse of 4 years. Ostensibly, the re-assessment proceedings under Section 147 r.w. Section 148 in the instant case has been initiated without valid approval under Section 151 of the Act.

8. Needless to say, Section 151 of the Act serves as a cardinal safeguard for valid initiation of re-assessment proceedings and requires to be strictly followed. The satisfaction on an escaped income by Principal Chief Commissioner / Chief Commissioner / Principal Commissioner / Commissioner of Income Tax under Section 151(1) is thus incumbent before the proceedings under Section 147 is set in

motion. In the instant case as noted, the approval has been obtained from Addl. CIT not competent for granting requisite approval under Section 151 of the Act. Such remissness on the part of the AO have rendered the entire re-assessment proceedings invalid and bad in law. As held by the Hon'ble High Court of judicature at Allahabad in the case of *Dr. Sashi Kant Garg vs. CIT, 285 ITR 158 (2005) (Alld.)*, the irregularity in obtaining the sanction of the competent authority is the substantive defect incurable under the provisions of the Act. Consequently, the re-assessment order stands quashed as pleaded on behalf of the assessee at the threshold. In view of such conclusion, other aspects of grievances are thus not required to be addressed.

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

Order pronounced in the open Court on 19th April, 2024.

Sd/-
[SAKTIJIT DEY]
VICE PRESIDENT

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER

DATED: **April, 2024**
Prabhat