



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No. 249/CTK/2023**

Assessment Year : 2014-2015

Maa Jagat Janani Seva Trust, At-Nambira, PO: Bamebari, PS: Joda, Dist: Keonjhar	Vs.	Asst. Commissioner of Income Tax, Exemption Circle, Bhubaneswar
PAN/GIR No.AADTM 1575 H		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri P.K.Mishra, Adv  
Revenue by : Shri Sanjay Kumar, CIT DR

**Date of Hearing : 16/07/2024**  
**Date of Pronouncement : 16/07/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 7.6.2023 in Appeal No.NFAC/2013-14/10180318 for the assessment year 2014-15.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri Sanjay Kumar, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a Trust. It was the submission that the return of income for the relevant assessment year came to be filed by the assessee originally on 27.9.2014. The return of income

filed by the assessee came to be processed and assessment came to be completed u/s.143(3) of the Act on 27.12.2016. It was the submission that in the impugned assessment order, which is assessment order u/s.147/144B of the Act, the Assessing Officer has mentioned that the original assessment order has been passed on 22.2.2016 which is an error. It was the further submission that when completing the original assessment u/s. 143(3) of the Act, the Assessing Officer has categorically mentioned that the books of account including bank accounts and same were examined and the bills/vouchers were produced for verification and the same were verified. It was the submission that subsequently on 25.3.2021, notice u/s.148 of the Act came to be issued, wherein, reasons were recorded as follows:

"On verification of the income and expenditure account for the F.Y. 2013-14 relevant to A.Y. 2014-15, it is seen that the assessee has received donation of Rs.43,16,39,378/- out of which a sum of Rs.22,67,194/- was unrealized during the said period as per minute of the meeting of the trust dated 4.4.2014. Hence, balance amount of donation of Rs.75,55,001/- (Rs.43,16,39,378 – (total credits of Rs.42,18,17,183 + Rs.22,67,194) appears to be anonymous donation in nature.

ii. On perusal of 26AS of the donor, M/s. Essar Steel India Ltd., an amount of Rs.5,55,558/- was deducted u/s.194J for payments made to the assessee, which also indicates that there is no donation element involved in the transactions between the assessee and the donor. The receipts covered under section 194J are made against the specific services rendered as mentioned thereto. It is professional fees, hence amount of Rs.,5,00,00,000/- received from M/s. Essar Steel India Ltd., are not donation receipts in nature. Furthermore, no return is found to have been filed by M/s. Essar Steel for the A.Y. 2014-15. Hence, receipts of Rs.5,00,00,000/- is to be taxed as business/professional income.

3. The assessee has received Rs.5,00,00,000/- from A.V. Birla, a trust. However, the purpose of the trust and its registration is not furnished by the assessee. it is also found that no return is filed by M/s. A.V. Birla. Hence, amount receipts of Rs.5,00,00,000/- is to be taxed as business/professional income.

1. As per return of M/s. Essel Mining for the A.Y. 2014-15, no donation is given to the assessee. However, the assessee has claimed to have received donation of Rs.23,83,65,596/- from it. Hence, the transaction does not appear to be genuine and the same is unexplained cash credit within the meaning of section 68 of the Income tax Act, 1961.

1. Out of fund transfer of Rs.5,18,62,600/-, major payments were made to the following parties:

<u>Sl.No.</u>	<u>Name of the party</u>	<u>Amount in Rs.</u>
1.	Raghunath Mohapatra	50,00,000
2.	Ashok Kumar Mahakud	80,00,000
3.	Ranjit Kumar Barik	60,00,000
4.	Bhaktabandhu Mohanta	55,00,000
5.	Jethuram Mahanta	50,00,000
6.	Rajendra Barik	25,00,000
7.	Ranjan Mahakud	25,00,000
8.	M/s. Thriveni Earth Motors Pvt Ltd.	15,79,000
9.	M/s. Biraja Chemical	11,70,000
10.	M/s. A.K.Traders	22,00,000
11.	Barbil Cricket Association	8,00,000
12.	Ashok Leyland	<u>13,99,000</u>
		<u>4,16,48,000</u>

Out of the above party, Ashok Kumar Mahakud, Ranjit Kumar Barik and Jethuram Mahanta are related to the trustee or other organization of Shri Sanatan Mahakud, the Managing Trustee. Hence, transaction with the above parties appears to be not for the purposes of the trust. Rs.8,00,000/- is paid to Barbil Cricket Association, however, Rs.35,90,000/- has been claimed towards social/cultural project. Hence, there is excess claim of Rs.27,90,000/-. Rs.13,99,000/- is paid to Ashok Leyland which appears to be paid for acquisition of assets. However, Rs.71,82,265/- has been claimed towards acquisition of assets. Hence, acquisition of asset and depreciation claimed appears to be doubtful. Nature of payment to M/s. Thriveni Earthmovers Pvt Ltd., a donor of Rs.15,79,000/- appears to be not for the purpose of charity. Further, most of the expenses are found to be incurred in cash and no document is provided by the assessee with regard to payment to poor. The genuineness is doubtful which do not come under charitable purpose as per section 2915) of the I.T.Act.

Hence, I have a reason to believe that the amount of Rs.36,92,89,597/- (anonymous donation of Rs.75,55,001 + payment u/s.194J of Rs.5,00,00,000 + donation from A.V. Birla of Rs.5,00,00,000 + donation from Esser Steel of Rs.23,83,65,596/- + payments to Ashok Kumar Mahakud, Ranjit ZKumar Barik and jethuram Mahanata of Rs.1,90,00,000 + excess claim towards social/cultural project of Rs.27,90,000 + payment not in the nature of charity of Rs.15,79,000 ) has escaped assessment within the meaning of section 147 of the Income tax Ac, 1961."

4. It was the submission that consequently, approval had been obtained from the Joint Commissioner of Income Tax (JCIT) and the concerned Commissioner of Income Tax (CIT). Ld CIT DR has placed before us the copy of the approval u/s. 151 of the Income tax Act, 1961, which consists of 10 pages, which are as follows:

GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT CIT EXEMPTION HYD AT BBN			
<b>Approval u/s 151 of the IT Act, 1961</b>			
PAN: AADTM1575H	AY: 2014-15	Dated: 23/03/2021	DIN & Document No : ITBA/AST/S/118/2020-21/1031700162(1)
<b>Name and Address of Assessee:</b> MAA JAGATJANANI SEVA TRUST			
<b>Approving Authority</b>		PCIT/CIT	
Category		Reassessment	
Income Escaped Amount >= 1 Lakh		Yes	
Income Escaping Assessment (Rs.)		36,92,89,597	
<b>Proposal Details:</b>			
Name of Officer		RUPASRI ROY CHAKRAVARTY	
Designation		EXEMPTION CIRCLE, BBN	
Date of Proposal		22/03/2021	
Reason(s) to Believe:		As per Annexure	
<b>Recommendation Details:</b>			
Name		THAMBURAN THOZHAPILLAI AYYAMPERUMAL	
Designation		Jt. CIT, EXEMPTION RANGE, BBSR	
Recommended (Yes/No)		Yes	
Recommendation Date		22/03/2021	
Recommendation Remarks		On seeing the facts, I am satisfied that, it is a fit case for re-opening u/s 147 of the IT Act, 1961. Hence necessary approval may be given, if deems fit.	
<b>Approval Details:</b>			
Name		PEERYA PATHLAVATH	
Designation		CIT EXEMPTION HYD AT BBN	
Approval Status		Approved	
Date of Approval		23/03/2021	
Remarks of approving authority		I agree with the reasons recorded by the assessing officer. I am satisfied that income has escaped from assessment, hence it is a fit case for reopening of the assessment U/s. 147 of the IT Act, 1961. Sanction is accorded to issue notice U/s. 148 of the IT Act.	
PEERYA PATHLAVATH CIT EXEMPTION HYD AT BBN			
<small>Note: If digitally signed, the date of digital signature may be taken as date of document.                      .AAYAKAR BHAWAN, RAJASWA VIHAR, BHUBANESWAR, Orissa, 751007                      Email: BHUBANESWAR.CIT.EXAM@INCOMETAX.GOV.IN</small>			
* DIN- Document identification No.			

**Proforma for recording the reasons for re-opening proceedings u/s 147 and for obtaining approval of the CIT (E), Hyderabad**

**(Where regular assessment was made u/s.143 (3)/147 and period of 4 years have expired from end of assessment year)**

Name of the assessee : M/s. **Maa jagat Janani Seva Trust**

Address of the assessee : At: Nambira , PO: Bamebari, Dist : Keonjhar

PAN of the assessee : **AADTM1575H**

Assessment Year : **2014-15**

Details of the Assessing Officer having jurisdiction over the assessee : Asst. Commissioner of Income Tax (Exemptions), Bhubaneswar

**Reasons for re-opening of the assessment in the case of M/s. Maa jagat Janani Seva Trust for the A.Y. 2014-15:**

**1. Brief details of the assessee:**

The assessee is a trust and was registered u/s 12A and 80G of the income Tax Act, 1961 with effect from 01.04.2013. The objective of the assessee is relief to the poor, education, medical relief, preservation of environment and object of general public utility.

**2. Brief details of information collected/ received by the AO:**

Investigation report was received from ADIT (Inv.), Unit -2(1), Bhubaneswar vide letter no. ADIT (Inv.)/U-2(1)/BBSR/STR/2019-20/6400 dated 07.02.2020 on 13/02/2020 pertaining to the A.Y.s 2013-14 and 2014-15. They received a STR filed by IndusInd Bank Ltd. whereby it was learnt that Mr. Sanatan Mahakud maintained a current account in the

AAU/10218738H- MAA JAGATJANANI SEVA TRUST  
A.Y. 2014-15  
CPA/AST/SH/148/2020-21/1181708\*6211

name of this Trust since 24/09/2012. There was high value transaction in this account which did not match with the profile of the assessee.

**3. Analysis of information collected/received:**

On perusal of the above Investigation Report, it is revealed that the deposit/ credit during the FY 2013-14 made in all three bank accounts are as under:

Sl No	Account No	Cash deposit	Transfer	Total credit	Cash withdrawal	Self cheque	Transfer	Total debit
1	200010298141	5,00,000	29,00,50,587	29,05,50,587	6,65,00,000		-4,35,43,000	11,00,43,000
2	200009480975	9,00,000	10,02,65,596	10,11,65,596		-45,00,000	83,19,600	1,28,19,600
3	540120110000333	-	3,01,01,000	3,01,01,000		-	-	-
	<b>Total</b>	<b>14,00,000</b>	<b>42,04,17,183</b>	<b>42,18,17,183</b>	<b>6,65,00,000</b>	<b>45,00,000</b>	<b>5,18,62,600</b>	<b>12,28,62,600</b>

From the income and expenditure account for the FY 2013-14 relevant to AY 2014-15, it is seen that the assessee has received donation of Rs.43,16,39,378/- out of which a sum of Rs. 22,67,194/- was unrealized during the said period as per minute of the meeting of the trust dated 04.04.2014. Hence donation of Rs.42,93,72,184/- was received during the relevant period. Details of donation received during the FY 2013-14 are as under:-

Sl.No.	Name of the party	PAN	Amount in Rs.
1	M/s Triveni Earthmovers Pvt. Ltd.	AABCT6759R	2,18,80,000
2	M/s Unchabali Development Committee	AACFU3653K	45,00,000
3	M/s Chaturbhuj Development Committee	AAGFC8727Q	92,279
4	M/s Maa Kuari Transport Pvt. Ltd.	AAPFM7080B	10,00,000

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 A.Y. 2014-15  
 ITA No. 249/2023-24/1094700162(1)

5	M/s Jagat Janani Servives	AAGFJ3709H	5,00,000
6	M/s Essel Mining Pvt. Ltd.	AAACE6607L	23,83,65,596
7	M/s A V Birla	AABTA0750G	5,00,00,000
8	M/s Essar Steel Pvt. Ltd.	AABCE6051D	5,00,00,000
9	M/s Rugta Mines Ltd.	AABCR6463N	2,00,00,000
10	Mr. Mangilal Rugta	Not found	1,00,00,000
11	M/s Rugta Sons Pvt. Ltd.	AABCR2356N	2,00,00,000
			<b>41,63,37,875</b>

From the bank statement and donation ledger, it appears that donation receipt at Rs. 43,16,39,378/- is doubtful for the following findings:-

1. As per bank statement and donation ledger it appears that donation a sum of Rs. 42,18,17,183/- was received . Thus, mode of receipt of balance amount of donations of Rs. 75,55,001/- ( Rs.43,16,39,378 minus Rs.42,18,183) appears to be doubtful.
2. From the donation ledger for the F.Y. 2013-14 submitted by the assessee it is also seen that out of donation of Rs.43,16,39,378/-, Rs.18,51,000/- was received in cash from Shri Sanatan Mahakud , Managing Trustee, his spouse and son who are also associated with the trust. However, only Rs. 14,00,000/- was deposited in the bank account. The assessee has not furnished cash book in support of expenses incurred before deposit of the same.
3. From the ledger it is seen that TDS is made by a donor, M/s.Thriveni Earthmovers Pvt. Ltd. in the hands of the assessee being trust. Thus, the transaction does not appear to be genuine.
4. No return is found to have been filed by the donor, M/s Essar Steel for the A.Y. 2014-15. Hence genuineness of donation received from it of Rs. 5,00,00,000/- is not proved.
5. The assessee has received of Rs.5,00,00,000/- from A.V. Birla, a trust . However, the purpose of the trust and its registration is not furnished by the assessee. It is also found that no return is filed by M/s A.V. Birla.
6. As per return of M/s Essel Mining for the A.Y. 2014-15, no donation is given to the assessee. However the assessee has shown to have received donation of



आयकर विभाग, मा. ज. अ. सेवा विभाग  
आ. य. 2014-15  
पत्रांक: ITA/2023-24/103/0015/11

7	Ranjan Mahakud	25,00,000
8	M/S Triveni Earth Movers Pvt. Ltd.	15,79,000
9	M/S Biraja Chemical	11,70,000
10	M/S A K Traders	22,00,000
11	Barbil Cricket Association	8,00,000
12	Ashok Leyland	13,99,000

Out of the above party Ashok Kumar Mahakud, Ranjit Kumar Barik and Jethuram Mahanta are related to the trustee or other organization of Shri Sanatan Mahakud, the Managing Trustee. Hence transaction with the above parties appears to be not for the purposes of the trust. Rs.8,00,000/- is paid to Barbil Cricket Association, however, Rs.35,90,000/- has been claimed towards social/ cultural project. Hence, there is an excess claim of Rs. 27,90,000/-. Rs.13,99,000/- is paid to Ashok Leyland which appears to be paid for acquisition of assets. However, Rs.71,82,265/- has been claimed towards acquisition of assets. Hence acquisition of asset and depreciation claimed appears to be doubtful & excessive. Nature of payment to M/s Thriveni Earthmovers Pvt. Ltd., a donor, of Rs.15,79,000/- appears to be not for the purpose of charity. Further most of the expenses are found to be incurred in cash and no document is provided by the assessee with regard to payment to poor, the genuineness is doubtful.

In view of above it appears that the expenses are not made for the purpose of charity and books of account are not maintained properly.

4. **Enquiries made by the AO as sequel to information collected/received:**

Not applicable.

5. **Findings of the AO:** As above.

6. **Basis of framing reasons to believe and details of escapement or income:**

i. On verification of the income and expenditure account for the FY 2013-14



AACTM15/75H- MAA JAGATJANANI SEVA TRUST  
A.Y. 2014-15  
(TBA/AST/5/118/2020-21/1031700162/1)

4	Bhaktabandhu Mahanta	55,00,000
5	Jethuram Mahanta	50,00,000
6	Rajendra Barik	25,00,000
7	Ranjan Mahakud	25,00,000
8	M/S Thriveni Earth Movers Pvt. Ltd.	15,79,000
9	M/S Biraja Chemical	11,70,000
10	M/S A K Traders	22,00,000
11	Barbil Cricket Association	8,00,000
12	Ashok Leyland	13,99,000
		<b>4,16,48,000</b>

Out of the above party Ashok Kumar Mahakud, Ranjit Kumar Barik and Jethuram Mahanta are related to the trustee or other organization of Shri Sanatan Mahakud, the Managing Trustee. Hence transaction with the above parties appears to be not for the purposes of the trust. Rs.8,00,000/- is paid to Barbil Cricket Association, however, Rs.35,90,000/- has been claimed towards social/ cultural project. Hence, there is excess claim of Rs.27,90,000/-. Rs.13,99,000/- is paid to Ashok Leyland which appears to be paid for acquisition of assets. However, Rs.71,82,265/- has been claimed towards acquisition of assets. Hence acquisition of asset and depreciation claimed appears to be doubtful. Nature of payment to M/s.Thriveni Earthmovers Pvt. Ltd., a donor, of Rs.15,79,000/- appears to be not for the purpose of charity. Further most of the expenses are found to be incurred in cash and no document is provided by the assessee with regard to payment to poor. The genuineness is doubtful which do not come under charitable purpose as per section 2(15) of the IT Act.

Hence, I have a reason to believe that the amount of Rs.36,92,89,597/-

[anonymous donation of Rs.75,55,001/- + payment u/s.194J of Rs.5,00,00,000/- + donation from A V Birla of Rs.5,00,00,000/- + donation from Esser Steel of Rs.23,83,65,596/- + payments to Ashok Kumar Mahakud, Ranjit Kumar Barik and Jethuram Mahanta of Rs.1,90,00,000/- + excess claim towards social/cultural project of 27,90,000/- + payment not in the nature of charity of Rs.15,79,000/-] has escaped assessment within the meaning of section 147 of the Income Tax Act, 1961.

**7. Escapement of income chargeable to tax in relation to any assets (including financial**

**interest in any entity) located outside India:** Not applicable.

**8. Finding of the AO on true and full disclosure of the material facts necessary for assessment**

**under Proviso to section 147 :** As per para.6.

**9. Applicability of provisions of section 147/151 to the facts of the case:**

In this case, a return of income was filed for the year under consideration and regular assessment u/s 143(3) was made on 22.02.2016. Since, 4years from the end of relevant year expired in this case; requirements to initiate proceedings under section 147 are reason to believe that income for the year under consideration has escaped assessment because of failure on the part of assessee to disclose fully and truly all material facts, necessary for his assessment for the assessment year under consideration. It is pertinent to mention here that reasons to believe that income has escaped assessment for the year under consideration have been given above (paragraphs-6). I have carefully considered the assessment records containing the submissions made by the assessee in response to various notices issued during the assessment / reassessment proceedings and have noted that the assessee has not fully and truly disclosed the following material facts necessary for his assessment for the year under consideration.

It is evident from the above fact that the assessee had not truly and fully disclosed material facts necessary for his assessment for the year under consideration thereby necessitating reopening u/s 147 of the Act.

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It is true that the assessee has filed a copy of annual report and audited P&L A/c and balance sheet along with return of income where various information /material were disclosed . However, the requisite full and true disclosure of all material facts necessary for assessment has not been made as noted above. It is pertinent to mention here that even though the assessee has produced books of accounts, annual report, audited P &L A/c and balance sheet or other evidence as mentioned above, the requisite material facts as noted above in reasons for reopening were embedded in such a manner that material evidence could not be discovered by the AO and could have been discovered with due diligence, accordingly attracting provisions of Explanation 1 of section 147 of the Act.

It is evident from the above discussion that the issues under consideration was never explained by the AO during the course of regular assessment / reassessment. This fact is corroborated from the contents of the notices issued by the AO u/s 143(2) /142(1) and order sheet entries dated 12.11.2015, recorded during the 143/ 147 proceedings. It is important to highlight here that material facts relevant for the assessment on the issue(s) under consideration were not filed during the course of assessment proceedings and the same may be embedded in annual report, audited P&L A/c, balance sheet and books of account in such a manner that it would require due diligence by the AO to extract these information. For aforesaid reasons, it is not a case of change of opinion by the AO.

In this case more than four years has been lapsed from the end of the assessment year under consideration. Hence, necessary sanction to issue notice u/s 148 is required from the Pr. Chief Commissioner of Income Tax or Chief Commissioner of Income Tax or Pr. Commissioner of Income Tax or Commissioner of Income Tax as per the provisions of section 151 of the Act. .

Proposal submitted to the Commissioner of Income Tax (Exemptions), Hyderabad as per aforesaid reasons seeking sanction u/s 151(1) before issuance of notice u/s 148 of the Income Tax Act, 1961.

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Signer: PEERYA P...TH  
Date: 23 March 20...  
Location: DIRECT... India

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5. It was the submission by Id AR that the proposal for reopening had been sent by the Assessing Officer on 22.3.2021 to JCIT (Exemption), Range, Bhubaneswar, who had approved the reopening on 22.3.2021 itself and recorded the satisfaction. It was the submission that the Id

CIT(Exemption), Hyderabad at Bhubaneswar had given the approval on 23.3.2021 being immediately succeeding day for the purpose of reopening. It was the submission that the approval given clearly shows non-application of mind. It was the submission that clearly the reopening was bad in law. It was the further submission that a perusal of reasons recorded also shows that the reopening has been done beyond four years period from the end of the relevant assessment year and in view of the proviso to section 147 of the Act, the Assessing Officer has not given any finding that there was failure on the part of the assessee to disclose truly and fully all materials facts necessary for its assessment originally. It was the submission that in view of the decision of the Hon'ble Supreme Court in the case of **CIT v. Kelvinator of India Ltd.: 320 ITR 561(SC)**, the reopening is liable to be quashed and consequent assessment is also liable to be annulled.

6. In reply, Id CIT DR submitted that the assessee trust is a brain child of one Shri Sanatana Mahakud. It was the submission that said Sanataka Mahakud is a politician, who has started his career as a politician in Congress Party, then shifted to Independent and later on to Biju Janata Dal. It was the submission that said Sanatana Mahakud had captured few acres

of government land, put up a temple under the name of Maa Jagat Janani and had also used part of the land for building his palace house. It was the submission that subsequently through litigation and government action, illegal encroachment was removed by which time he had opened the impugned trust under the name of Maa Jagat Janani Seva Trust. It was the submission that under the guise of the trust, the said Sanatana Mahakud used to collect money and the same were used for his personal benefits and the benefits of his near and dear ones. It was the submission that said Managing Trustee of the assessee trust has been searched by the various Government Authorities and during the year 2023, he was also searched by the Income tax Department. It was the submission that search assessments are still pending. It was the submission that under these circumstances, the past records of the assessee were also examined and on account of said search in 2023, evidences have come into forefront that the assessee is using the impugned trust for carrying out illegal activities. It was the submission that the reopening has been done after obtaining necessary approval and just as the Tribunal is disposing off more than 5-8 appeals in a day, it was very much possible for the JCIT and CIT to examine the files of the assessee and given approval within a day. It was the submission that failure of the assessee to provide all the details was evident from the fact that many of the donors had not claimed the donation given to the assessee trust in their returns of

income or many of them have not filed their returns of income. It was the submission that the reopening is liable to be upheld.

7. We have considered the rival submissions. At the outset, a perusal of page 6 para 4 of the approval u/s.151 of the Act as provided by Id CIT DR shows that the enquiries made by the Assessing Officer as the sequel of the information collected/received is remarked as not applicable. Thus, clearly, there is no action done by the Assessing Officer in regard to collection of information for the purpose of reopening. A perusal of the reasons recorded as stated in para 6 of the said approval and which has been extracted above, clearly shows that the said reopening is on the basis of verification of the income and expenditure account. This income and expenditure account was very much with the Assessing Officer in the course of original assessment. The second evidence which has been considered by the Assessing Officer is 26AS of the donor Essar Steel India Ltd. This evidence was also available in the course of original assessment proceedings. This is excluding the reasons that just because Essar Steel India Ltd., has not filed its return of income or claimed the same as the donation, responsibility cannot be put on the assessee. Another reason given by the Assessing Officer is that TDS has been deducted by Essar Steel India Ltd., u/s.194J. The assessee has claimed TDS in his original return and this information was very much available in the original assessment proceedings. The third reason mentioned by the Assessing Officer is in

regard to amount of Rs.5,00,00,000/- received by A.V.Birla Trust and the details of the same had not been provided by the assessee nor the said trust has filed in its return. These are also reasons not associated to the assessee or under the control of the assessee. The other reason mentioned by the Assessing Officer is that payments had been made to various persons who are allegedly related to Sanatana Mahakud, the Managing Trustee of the assessee trust. What is the relationship is not coming out and as mentioned earlier, the Assessing Officer has not done any investigation as he has himself agreed in para 4 of the proforma for approval. Thus, clearly, some reasons have been raked up for the purpose of reopening. Further, it may be mentioned here that page 2 para 2 of the proforma talks of investigation report having been received in the assessment years 2013-14 & 2014-15 and clearly it is this investigation report which has raised the said allegation which have been borrowed by the Assessing officer as reasons recorded for the purpose of reopening.

8. Now, coming to the satisfaction as recorded by the JCIT, there is nothing available or discernible from the said satisfaction recorded by the JCIT or by Id CIT(E), Hyderabad at Bhubaneswar which gives indication that either of them have verified the records much less examined the issues before granting the satisfaction or the sanction for reopening. This view of ours that the reopening is not permissible on the basis of borrowed satisfaction of the Investigation Wing finds support from the decision of

Hon'ble Delhi High Court in the case of Sarthak Securities Pvt Ltd., vs ITO, 329 ITR 110 (Del).

9. A perusal of the decision of Hon'ble Supreme court in the case of Kelvinator of India Ltd (supra) has categorically held that after 1.4.1989, Assessing Officer has power to re-open the assessment, provided there is "tangible material" to come to the conclusion that there is escapement of income from assessment and such reasons must have a live link with the formation of the belief. As mentioned earlier, in the present case, at the cost of repetition, the reasons recorded are borrowed from the Investigation Reports, the Assessing Officer himself categorically admits in para 4 that there are no enquiries made by the Assessing Officer as a sequel to the information collected/received. A perusal of the investigation report provided by the Investigation Wing as has been recorded by the Assessing Officer also does not point out any tangible material having live link with the assessee much less on the failure on the part of the assessee. This being so, for both the reasons mentioned above, the reassessment as done by the Assessing officer by issuance of notice u/s.148 of the Act stands quashed. Consequently, the assessment order passed u/s.147/144B of the Act also stands quashed.

10. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 16/07/2024.

**(Manish Agarwal)**  
ACCOUNTANT MEMBER

**(George Mathan)**  
JUDICIAL MEMBER

Cuttack; Dated 16/07/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Maa Jagat Janani Seva Trust, At-Nambira, PO: Bamebari, PS: Joda, Dist: Keonjhar
2. The Respondent: Asst. Commissioner of Income Tax, Exemption Circle, Bhubaneswar
3. The CIT(E), Hyderabad
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, CUTTACK**