

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.339/Nag./2023
(Assessment Year : 2015-16)

Vijaya Vinod Duragkar
Old Hislop College, Mahal
Nagpur 440 002 PAN – AFXPD4845E

..... Appellant

v/s

Income Tax Officer
Ward-4(4), Nagpur

..... Respondent

Assessee by : Shri Kapil Hirani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/11/2024

Date of Order – 18/11/2024

ORDER

PER K.M. ROY, A.M.

The assessee has filed this appeal challenging the impugned order dated 11/10/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2015-16.

2. In its appeal, the assessee has raised following grounds:-

"1. The reopening of the assessment and the assessment so completed are illegal, invalid and deserves to be quashed as per law and in the interest of justice.

2. On the facts and circumstances of the case and in law, the AO grossly erred in making and the CIT(A) grossly erred in confirming the addition of treating the investment in property by the Appellant as unexplained and making the addition under section 69 of the Act. The source of investment

in property being from explainable sources and the source of investment in property being held to be explained in the hands of the co-owner of the property, the addition so made is illegal and liable to be deleted in the interest of justice.

3. On the facts and circumstances of the case and in law, the AO grossly erred in making and the CIT(A) grossly erred in confirming the addition under section 56(2)(vii)(b) treating the stamp duty valuation of the property as the fair market value determining the fair market value of the property and without referring the property for valuation and without following the due process in law which makes the addition bad in law and liable to be deleted in the interest of justice.

4. On the facts and circumstances of the case and in law, the AO grossly erred in making and the CIT(A) grossly erred in confirming the addition under section 56(2)(vii)(b) treating the stamp duty valuation of the property as the fair market value ignoring the fact that the property suffered from various disadvantages due to which the price at which the property has been purchased is the fair market value of the property and as such the addition made under section 56(2)(vii)(b) deserves to be deleted in full in the interest of justice.

5. On the facts and circumstances of the case and in law, the property has been purchased at fair market value and as such the addition made under section 56(2)(vii)(b) deserves to be deleted in full in the interest of justice.

6. Without prejudice, on the facts and circumstances of the case and in law, the AO grossly erred in making and the CIT(A) grossly erred in confirming addition under section 56(2)(vii)(b) ignoring the factual aspects in relation to the property emanating from the assessment of Shri Vinod Durugkar who is the co-owner of the property and on the basis of which assessment the Appellants assessment was reopened.

7. Under any case the stamp duty valuation of the property is extremely excessive, and which deserves to be reduced substantially in the interest of justice.

8. The Appellant craves leave to add, amend, alter, vary and / or withdraw the above grounds of appeal with the kind permission of the Hon'ble Tribunal."

3. In the present case, the assessee is an Individual and filed her return of income for the year under consideration on 28/03/2016, disclosing total income of ₹ 7,56,742, for the income derived under the heads "income from house property", "income from business & profession" and "income from other sources". The case was re-opened and notice under section 148 of the Income Tax Act, 1961 ("the Act") was issued on 20/03/2020. The assessee, while

responding to the notice under section 148 of the Act, vide her letter dated 30/03/2021, submitted that she having already filed her return of income disclosing all relevant details, the notice under section 148 of the Act is illegal and invalid and hence requested the Assessing Officer to drop the same. However, in order to make statutory compliance of the notice under section 148 of the Act, the assessee again filed her return of income declaring the same income i.e., ₹ 7,56,742, which was disclosed in the original return of income. On the request of the assessee, the Revenue supplied reasons for re-opening to the assessee which was primarily pertained to verification of the source of purchase of property by the assessee along with her husband Shri Vinod Durugkar, which was based on the information received by the Assessing Officer from ACIT Circle-4, Nagpur, who completed the assessment of Shri Vinod Durugkar.

4. The assessee, vide her submission dated 09/07/2021, objected to the re-opening on various grounds and relying on various judicial precedents in support and urged before the Assessing Officer to drop the impugned proceedings under section 148 of the Act in the interest of justice. The Assessing Officer, vide order dated 27/08/2021, rejected the objections of the assessee and opted to continue with the re-opening proceedings. During the year, the assessee purchased an immovable property for a total consideration of ₹ 1,53,02,000, situated at Parsodi, along with her husband from 32 co-owners. The ready reckoner value of the said immovable property for the purpose of payment of stamp duty was ₹ 7,58,97,000/-. The source of the investment was through loan taken from M/s. Sonu Constructions, which is a

proprietary concern of the assessee's husband Shri Vinod Durugkar. The said investment was duly reflected in the audited statement of accounts of M/s. Sonu Constructions, which also has been duly accepted and assessed during assessment under section 143(3) of the Act in respect of Shri Vinod Durugkar, the husband of the assessee. The assessment for the A.Y. 2015-16 in respect of Shri Vinod Durugkar, the husband of the assessee, was completed by the Assessing Officer under section 143(3) of the Act by the ACIT, Circle-4, Nagpur, wherein the source of investment made in the purchase of property was accepted. However, on account of difference between the purchase consideration and ready reckoner value of the property, which was disputed during the course of assessment proceedings as not being indicative of the market value of the property, the same was referred to the Valuation Officer for valuation and a result of which the Valuation Officer determined the market value of the property at ₹ 2,94,97,500, which was compared with the actual purchase consideration of ₹ 1,53,02,000, and the resulted difference was ₹ 1,41,95,500. As the property was co-owned the 50 percent share of Shri Vinod Durgukar came to be determined at ₹ 70,97,750, the Assessing Officer proposed addition of this ₹ 70,97,750, under section 56(2)(vii)(b) of the Act in the hands of Shri Vinod Durgukar, the husband of the assessee. Shri Durugkar, in response submitted that they have vide mutual agreement made additional payment of ₹ 53,16,327, to the vendors for the same property which also ought to be considered. The total payment thus made for purchase of property was thus ₹ 2,06,18,327, made jointly by the Shri Vinod Durgukar, and the assessee. The Assessing Officer accepted the source of the investment in the case of Shri Vinod Durugkar, and after giving credit for the additional payment

so made completed the assessment of Shri Vinod Durgukar, by making an addition of ₹ 44,39,587, under sec. 56(2)(vii)(b) of the Act representing the 50% of the total difference considering the share of Shri Vinod Durugkar, in the property to be 50% and the balance belonging to the assessee. Despite completion of assessment in respect of Shri Vinod Durugkar, the husband of the assessee as above, the Assessing Officer made following additions in the hands of the assessee:-

<i>Addition u/s 69 on account of Investment in property</i>	$₹ 1,95,07,200 \times 50\% =$	<i>₹ 97,53,600</i>
<i>Addition u/s 56(2)(vii)(b) on account of Stamp Duty Valuation of Property</i>		<i>₹ 7,58,97,000</i>
<i>Less: Purchase Cost</i>		<i>(-) ₹ 1,53,02,000</i>
<i>Balance</i>		<i>₹ 6,05,95,000</i>
<i>50% share (Addition made)</i>		<i>₹ 3,02,97,500</i>

The assessee was not satisfied with the order so passed by the Assessing Officer, hence approached first appellate authority for redressal of her grievances.

5. The learned CIT(A) held re-opening to be valid and proceeded to adjudicate the issues on merit.

6. Insofar as addition of ₹ 97,53,600 under section 69 of the Act on account of investment in immovable property is concerned, the learned CIT(A) rejecting the submissions of the assessee and upheld the order of the Assessing Officer on this count. The relevant observations of the learned CIT(A) are as under:-

"4.2.1 The AO held in the assessment order that during the year under consideration, the assessee had purchased immovable property jointly with her husband Shri Vinod Durgakar for sale consideration of Rs.1,53,02,000/- and other expenses of Rs.42,05,200/- for stamp duty and registration fee were incurred and the total comes to Rs.1,95,07,200/-. A show cause notice along with draft assessment order was issued on 08.09.2021 proposing that the value of the investment of Rs.97,53,600/- is deemed to be the income of the assessee for the year under consideration in terms of section 69 of the I.T. Act. The assessee was given opportunity to furnish reply. However, the assessee has grossly failed to furnish any reply till the completion of the assessment. The AO concluded that the assessee has made total investment of Rs.97,53,600/- (i.e. ½ share of investment of Rs.1,95,07,200/-) towards the immovable property purchased, whereas the assessee declared total income of Rs.6,46,890/- only for the year under consideration. Thus, the investment so made of Rs.97,53,600/- by the assessee in immovable property during the year under consideration is not justified with the total income declared by the assessee for year under consideration as well as for the immediately preceding assessment years. Further, the assessee has failed to furnish any explanation with regard to sources of investment of Rs.97,53,600/- made in immovable property during the year.

4.2.2 I have gone through the facts of this case and the grounds of appeal. Section 56(2) provides that where the stamp duty value of immovable property as referred to in sub-clause (b) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (b) as they apply for valuation of capital asset under those sections. I have gone through the valuation report submitted by the Valuation Officer, Income Tax Department, Nagpur wherein the declared value and assessed value are shown at Rs. 1,53,02,000/- and Rs.2,84,97,500/- respectively.

4.2.3 There is no dispute with regard to the fact that assessee had purchased immovable property and there was a difference of value as disclosed by the assessee and adopted by the Stamp Valuation Authority. It is also not a case where the assessee objected before the AO regarding valuation adopted by the Valuation Authority of Income Tax Department.

4.3 In view of the above, on careful consideration of the facts and submissions the value determined by the Valuation authority to be taken and the AO has rightly adopted the valuation as per DVO. The question involved in this issue is sources of income for purchase of the immovable property. It was submitted by the appellant that the AO accepted the source of the investment in the case of Shri Vinod Durugkar and after giving credit for the additional payment so made completed the assessment of Shri. Vinod Durugkar by making an addition of Rs. 44,39,587/- under sec. 56(2)vii)(b) of the Act representing the 50% of the total difference considering the share of Shri. Vinod Durugkar in the property. The appellant ought to have been submitted the information before the Assessing Officer during the assessment proceedings. However, she has not filed any information before Durugkar, nowhere the

sources of the investment was mentioned. In the absence of the details for the sources, there is no reason to interfere in the order of the AO. I am constrained to to dismiss the appeal. Therefore, the addition of Rs. 97,53,600/- (i.e ½ share of the investment of Rs. 19507200/2) is upheld. Accordingly, the ground No.2 raised in this appeal is dismissed.”

7. The addition under section 56(2)(vii)(b) of the Act is concerned, the learned CIT(A) held that there is no dispute with regard to the fact that assessee had purchased immovable property and there was a difference of value as disclosed by the assessee and adopted by the Stamp Valuation Authority. He also was of the view that it is also not a case where the assessee objected before the Assessing Officer regarding valuation adopted by the Stamp Valuation Authority. Provisions of section 56(2)(vii) of the Act squarely applicable in this case and hence, the learned CIT(A) found no reason to interfere in the order of the Assessing Officer. Accordingly, the issue raised by the assessee was dismissed. The assessee being aggrieved, is in further appeal before the Tribunal.

8. The learned Departmental Representative, Shri Abhay Y. Marathe, appearing on behalf of the Revenue argued that in the absence of proper explanation with valid supporting evidences to prove the source, the arguments / submissions of the assessee cannot be accepted and hence, failure of the assessee to explain her case with proper supporting documents and evidences, the re-opening of assessment by the Assessing Officer which was further confirmed by the learned CIT(A) is just and proper.

9. We have given a thoughtful consideration to the arguments made by the rival parties and perused the material available on record. During the course of hearing, at the very outset, the learned Counsel, Shri Kapil Hirani, appearing

for the assessee, requested the Bench to adjudicate Ground no.1, which relates to re-opening of assessment before delving upon other grounds on merit. The arguments / submissions of the learned Counsel on the issue of re-opening of assessment explaining it to be bad-in-law, are as follows:-

"Ground 1 - The reopening of the assessment and the assessment so completed are illegal, invalid and deserves to be set aside in the interest of justice.

23.1. The Appellant at the outset submits that the reopening of the assessment and the assessment so completed are illegal, invalid and deserves to be set aside in the interest of justice.

23.2. The Appellant submits that the reopening has been done solely for the purpose of verification which is impermissible under law and which has vitiated the entire reopening as the same is contrary to the settled principles of law.

23.3. The Appellant invites your honours kind attention to the reasons recorded for reopening the assessment which categorically says that the reopening has been done primarily to verify the source of investment of the Appellant in the immovable property.

23.4. The Hon'ble Bombay High Court has in the case of Nivi Trading Ltd. Vs. Union of India & Anr (2015) 278 CTR BOM 219, (2015) 375 ITR 308 (BOM) held that if more details are sought or some verification is proposed that cannot be a substitute for the reasons which let the AO to believe that an income chargeable to tax has escaped assessment.

23.5. Similar view has been taken by the Nagpur Bench of the Hon'ble Bombay High Court in PCIT 2 Vs. Sheetal Dushyant Chaturvedi (ITA No. 106 of 2017). SLPNo. 13935 of 2021 filed by the Income Tax Department before the Hon'ble Supreme Court has also been dismissed.

23.6. The reopening having been done solely for the purpose of verification of investment in immovable property is illegal and accordingly the reopening along with the assessment as completed pursuant to search illegal reopening deserves to be quashed as per law.

23.7. The assessment is further illegal as the same has been completed without properly disposing of the objections of the Appellant vide a speaking order as mandatorily required under law.

23.8. The Appellant invites your honours kind attention to the order of the AO wherein the AO has allegedly tried to dispose of the objections of the Appellant which your honour will appreciate have been done without objectively considering all the objections of the Appellant and which can at best be deemed to be a non-speaking order.

23.9. *The Hon'ble Bombay High Court IOT Infrastructure and Eng. Services Ltd. Vs. ACIT (2010) 329 ITR 547 (Bom) held that reassessment framed by the AO without disposing of the primary objection raised by the assessee to the issue of reassessment, notice issued by him was liable to be quashed.*

23.10. *The Hon'ble Bombay High Court in Fomento Hotels and Resorts Ltd. Vs. ACIT has held that It is mandatory for the AO to follow the procedure laid down in GKN Driveshafts 259 ITR 19 (SC) and to pass a separate order to deal with the objections. The disposal of the objections in the assessment order is not sufficient compliance with the procedure. The failure to follow the procedure renders the assumption of jurisdiction by the Assessing Officer ultra. vires (Bayer Material Science 382 ITR 333 (Bom) & KSS Petron (Bom) followed).*

23.11. *The Appellant in light of the above facts and the judicial pronouncements referred to hereinabove prays before your honour to kindly treat the reopening as illegal and quash the re-opening as well as the assessment completed pursuant to search illegal re-opening in the interest or justice."*

10. It is pertinent to reproduce now the reasons for re-opening of the assessment by the Assessing Officer which are as under:—

"1. *Brief details of the Assessee: The Assessee Vijaya Vinod Durugkar, is an individual resident of Behind Old Hislop College, Mahal, Nagpur-440002. The Assessee had filed return of income for A.Y. 2015-16 declaring Business income of Rs. 5,31,140/- on total turnover Rs. 19,62,440/- and Income from other sources of Rs.1,65, 122/-.*

2. *Brief details of information collected/received by the AO: In this case, the information received from ACIT, Circle-4, Nagpur that the assessee had purchased immovable property jointly with her husband Shri Vinod Durugkar for sale consideration of Rs.1,53,02,000/- and market value of Rs.7,58,97,000/- during the F.Y. 2014-15.*

3. *Analysis of information collected/received: The information received is that the assessee had purchased immovable property jointly for a total sale consideration of Rs.1,53,02,000/- and market value of Rs. 7,58,97,000/- during the F.Y. 2014-15. However, it is noticed that the assessee has filed return of income for the assessment year 2015-16 showing total income of Rs.6,46,890/-. The source of purchase of investment is to be verified.*

4. *Enquiries made by the AO as sequel to information collected/ received: On perusal of the information available in ITS and 360 degree profile on ITBA as well as on e-filing portal it is noticed that the assessee had filed return of income for the assessment year 2015-16 showing total income of Rs. 6,46,890/-. The source of purchase of investment is huge and is to be verified.*

5. Findings of the AO: The assessee had purchased immovable property for a total sale consideration of Rs.1,53,02,000/- and market value of Rs. 7,58,97,000/- during the F.Y. 2014-15. However, it is noticed that the assessee has filed return of income for the assessment year 2015-16 showing total income of Rs.6,46,890/-. The source of purchase of investment is huge and is to be verified.

6. Basis forming reason to believe and details of escapement of income:

Sources of investment in property is very huge and is to be verified In view of the above, I have a reason to believe that the amount of Rs. 76,51,000/- (50% of total amount of Rs.1,53,02,000/-) has escaped assessment for the A.Y. 2015-16.

7. Seventh paragraph will include escapement of income chargeable to tax in relation to any assets (including financial interest in any entity) located outside India: N.A.

8. Applicability of the provisions of section 147/151 to the facts of the case: In this case, the assessee having taxable income, has not paid her taxes due for A.Y. 2015-16, thus income has escaped the assessment. Therefore in the light of above discussion, I have reasons to believe that this is a fit case of invoking the provisions of section 147 of the Income Tax Act.

Therefore, necessary sanction to issue the notice u/s 148 is being obtained from the Joint Commissioner of Income Tax, Range-4, Nagpur as per the provisions of section 151 of the Act."

11. As is evident from the reasons recorded for re-opening, the Assessing Officer re-opened the case only for the purpose of verification of the source of purchase of the property. It is now well settled that no re-assessment can be done just to make an enquiry or verification and in support of this, we rely on Chapter-VI of the publication issued by the All India Federation of Tax Practitioners viz. Re-assessment Law, Procedure & Practice (Practical Guide) on the issue of "No Re-assessment Just To Make An Enquiry or Verification", which is reproduced below:-

"I. NO REASSESSMENT JUST TO MAKE AN FISHING ENQUIRY:

1.1 Though Explanation 2 of s. 147 authorizes the Assessing officer to reopen an assessment wherever there is an "under statement of

income", the AO is not entitled to assume that there is "under statement of income" merely because the assessee's income is "shockingly low" and others in the same line of business are returning a higher income. The invocation of the jurisdiction under section 147 on the basis of suspicions and presumptions cannot be sustained. Similarly assessment cannot be reopened merely to verify discrepancy.

1.2 In *CIT v. Maniben Velji Shah* (2006) 283 ITR 453 (Bom.)(HC). It was observed that Assessing Officer wanted to inquire about source of funds of an immovable property purchased by assessee. No reason to issue notice for reassessment.

1.3 In *Banke Bihar Properties Pvt. Ltd. v. ITO* (ITA NO. 5128/M/2015 dt. 22/04/2016) (Delhi) (Trib.); The Assessing Officer has mechanically issued notice under section 148 of the Act, on the basis of information allegedly received by him from the Directorate of Income Tax (Investigation), New Delhi. AO has not applied his mind so as to come to an independent conclusion that he has reason to believe that income has escaped during the year.

1.4 Fishing enquiry-Information from intelligence wing:

Giriraj Enterprises v. ACIT (2019) 174 DTR 409 (Bom.)(HC)

1.5 No reopening to make fishing inquiries.

(a) *PCIT v. G & G Pharma India Ltd.* [2017] 383 ITR 147 (Delhi)(HC)

(b) *Bhogwati Sahakari Sakhar Karkhana Ltd. v. Dy. CIT* (2004) 269 ITR 186 (Bom.)(HC)

(c) *Hindutan Lever Ltd. v. R. B. Wadkar*, ACIT (2004) 268 ITR 332 (Bom.)(HC)

(d) *Bhor Industries Ltd. v. ACIT* (2004) 267 ITR 161 (Bom.)(HC)

(e) *Ajanta Pharma Ltd. v. ACIT* (2004) 267 ITR 200 (Bom.)(HC)

II. REASON TO BELIEVE AND NOT REASON TO SUSPECT:

2.1 The reasons for formation of the belief must have a rational connection with or relevant bearing on the formation of the belief. Rational connection postulates that there must be a direct nexus or live link between the material coming to the notice of the Income Tax Officer and the formation of his belief that there has been escapement of the income of the assessee from assessment in the particular year because of his failure to disclose fully and truly all material facts. But it has to be borne in mind that it is not any and every material howsoever vague and indefinite or distant, remote and far-fetched which would warrant formation of the belief relating to escapement of income. Moreover, powers of the Income Tax Officer to reopen assessment, though wide are not plenary. The words of the statute are "reason to believe" and not "reason to suspect". Reopening of assessment after the lapse

of many years is a serious matter. Therefore wherever reasons recorded for reopening contains such sentences or phrase, this show the real intent behind reopening of assessment.

2.2 *In Universal Power Systems (P) Ltd. v. ACIT [2017] 48 ITR 191 (Chennai) (Trib). The Assessment was reopened merely to verify discrepancy- i.e. variation between Income declared by assessee and Income shown in TDS Certificate i.e. case reopened on reasons to suspect, held is not valid. The Tribunal explained the distinction between reason to believe and reason to suspect.*

III. GENERAL ALLEGATION: INCOME SHOCKINGLY LOW:

3.1 *In Rajendra Goud Chepur v. ITO (AP&T)(HC); www.itatonline.org: Merely because the assessee's income is "shockingly low" and others in the same line of business are returning a higher income. The invocation of the jurisdiction on the basis of suspicions and presumptions cannot be sustained.*

3.2 *Reassessment within four years General allegation No violation of provisions of S.11(3)(d)-Reassessment is bad in law:*

Areez Khambatta Benevolent Trust v. DCIT (2019) 415 ITR 70 (Guj.)(HC)

IV POWER IS NOT AKIN TO REVIEW:

4.1 *In Aventis Pharma Ltd. v. ACIT (2010) 323 ITR 570 (Bom.) (HC). The court observed that the power to reopen an assessment is conditional on the formation of a reason to believe that income chargeable to tax has escaped assessment. The power is not akin to a review. The existence of tangible material is necessary to ensure against an arbitrary exercise of power."*

12. The learned Counsel for the assessee, in support of his arguments on account of re-opening of assessment in the present case being bad-in-law, relied upon the following case laws:-

i) Nivi Trading Ltd. v/s Union of India & Anr., [2015] 375 ITR 308 (Bom.);

ii) CIT v/s Smt. Maniben Vilji Shah, [2006] 283 ITR 453 (Raj.);

iii) Precilion Holdings Ltd. v/s Dy. Commissioner of Income Tax, W.P. no.3342 of 2018, judgment dated 25/02/2019 (Bom. HC);

iv) Ankita A. Choksey v/s ITO, W.P. no.3344 of 2018, judgment dated 10/01/2019 (Bom. HC);

v) The Swastic Safe Deposit and Investments Ltd. v/s ACIT, W.P. no.1230 of 2019, judgment dated 25/06/2019 (Bom. HC); and

vi) PCIT v/s Sheetal Dushyant Chaturvedi, Income Tax Appeal no.106 of 2017, judgment dated 26/02/2021 (Bom HC Bench Nagpur).

13. The Hon'ble Bombay High Court in Nivi Trading Ltd. v/s Union of India, W.P. No.2314 of 2015, reported as [2015] 375 ITR 308 (Bom.) and other judgments mentioned above, has categorically held that the re-assessment under section 147 of the Act cannot be done solely for the purpose of verification.

14. Before us, the learned Departmental Representative argued that in the absence of proper explanation with valid supporting evidences to prove the source, the arguments / submissions of the assessee cannot be accepted and hence, failure of the assessee to explain her case with proper supporting documents and evidences, the re-opening of assessment by the Assessing Officer which was further confirmed by the learned CIT(A) is just and proper.

15. Here, as is evident, the re-opening was done only for the purpose of verification of the source of investment in the property, which is also evident from the reasons so recorded by the Assessing Officer and also reproduced herein above. Relying upon the aforesaid judicial propositions, which categorically held that the re-opening cannot be done for verification, therefore, we hold that re-opening of assessment is invalid and accordingly the consequent assessment also becomes invalid, unjustified and bad-in-law. Accordingly, the re-opening of assessment by the Assessing Officer and confirmed by the learned CIT(A) is hereby quashed for the reasons stated herein above. Since the re-opening itself is quashed, the corresponding

assessment order does not survive as well. Thus, the assessee succeeds in ground no.1.

16. Since the assessee has succeeded in ground no.1, i.e., re-opening of assessment being bad-in-law, the other grounds raised by the assessee became academic in nature, hence left un-adjudicated.

17. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 18/11/2024

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

**Sd/-
K.M. ROY
ACCOUNTANT MEMBER**

NAGPUR, DATED: 18/11/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur