

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.8849/Del/2019
Assessment Year: 2010-11

Sh. Birpal, Vill.-Duriyai, Post- Kachera Versabad, Gautam Buddha Nagar, Uttar Pradesh	Vs.	Income Tax Officer, Ward-1(5), Ghaziabad
PAN :BEDPP5428K		
(Appellant)		(Respondent)

Assessee by	None
Department by	Ms. Kanchan Garg, Sr. DR

Date of hearing	14.11.2024
Date of pronouncement	20.11.2024

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2010-11 is directed against the Commissioner of Income Tax (Appeals), [in short, the "CIT(A)"], Ghaziabad's order dated 30.09.2019 passed in case no. 75/2017-18/Gzb, involving proceedings under section 147/144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Case called twice. None appeared at the behest of the assessee. We accordingly proceeded *ex-parte* against him.

3. It emerges during the course of hearing that there arises the first and foremost fundamental issue of validity of the impugned section 148/147 reopening itself once it is clear from the assessee's paper-book at page 5 that the competent authority herein i.e. the learned PCIT, Ghaziabad, had accorded only a mechanical approval to the Assessing Officer reopening reasons than having subjectively applied his mind thereupon. We afforded ample opportunity to the department to rebut this clinching factual position which it has failed to throw sufficient light regarding the mandatory compliance to section 151 of the Act.

4. Learned Departmental Representative sought to buttress the point that the facts forming part of the case file indicate that the above prescribed authority had, indeed, applied its mind while approving the Assessing Officer's proposal as "yes I am satisfied. This is a fit case for issue of notice under section 148."

5. That being the case, we find that case law "[2015] 56 taxmann.com 390 (MP) CIT Vs. S. Goyanka Lime & Chemicals Ltd." as upheld in [2015] 64 taxmann.com 313 (SC) has settled the issue

that such an approach adopted by the prescribed authority amounts to a mechanical approval only which vitiates the entire reopening action itself. Coupled with this, the assessee has enclosed a catena of case-law right from pages 35 to 159 deciding the instant issue against the department that such an approval under section 151 of the Act is not a mere formal exercise but it requires due application of mind by the competent authority.

6. We accordingly find merit in the assessee's instant first and foremost legal issue going to the root of the matter and quash the impugned reopening in very terms. Ordered accordingly.

7. All other pleadings on merits stand rendered academic.

8. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 20th November, 2024

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated: 20th November, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi