

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA Nos. 1413 &435/Del/2021
(Assessment Year: 2016-17)**

Anil Kumar Jain, 4733/22, Prakash Deep Building, 2 nd Floor, Darya Ganj, New Delhi (Appellant) PAN:AAGPJ2715D	Vs.	DCIT, Central Circle- 26, New Delhi (Respondent)
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Assessee by :	Shri Prem Lamba, CA
Revenue by:	Shri Poojan Rana, Sr. DR

Date of Hearing	18/11/2024
Date of pronouncement	03/12/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. These appeals in ITA No.1413 &435/Del/2023 for AY 2016-17, arise out of the order of the Id. Commissioner of Income Tax (Appeals)-29, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 198/2019-20 dated 18.02.2021 against the order of assessment passed u/s 147/148 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 08.12.2019 by the Assessing Officer, DCIT, Central Circle-26, New Delhi (hereinafter referred to as 'Id. AO').
2. Though the assessee has raised several grounds challenging the validity of assumption of jurisdiction u/s 147 of the Act together with merits, we deem it fit to first address the assumption of jurisdiction u/s 147 of the Act.
3. We have heard the rival submissions and perused the material available on record. The assessee has filed its return of income on 30.09.2016 for AY 2016-17 declaring total income of Rs. 81,12,900/- which was duly processed

u/s 143(1) of the Act on 14.11.2016 accepting the return of income. A search and seizure action u/s 132(1) of the Act was carried out on Shri Anand Jain and Shri Naresh Jain Group of cases on 17.12.2015. Based on the said search, the Id AO reopened the assessment of the assessee u/s 147 of the Act vide issuance of notice u/s 148 of the Act on 13.03.2019. The reasons recorded for reopening the assessment together with the approval granted by the Additional CIT, Central Circle-7, New Delhi in terms of section 151 of the Act are enclosed in pages 28 to 30 of the Paper Book. On perusal of the proforma seeking approval u/s 151 of the Act, we find that the Id Addl CIT had merely stated that he is satisfied that this is fit case for reopening. This sort of approval granted u/s 151 of the Act was held to be approval granted without application of mind and construed as mechanical by the Hon'ble Madhya Pradesh High Court in the case of CIT Vs. S. Goyenka Lime and Chemicals Ltd reported in 56 taxmann.com 390 (MP HC). The Special Leave Petition (SLP) filed by the revenue against this decision was dismissed by the Hon'ble Supreme Court reported in 64 taxmann.com 313. Further, we find that the Hon'ble Jurisdictional High court in the case of PCIT Vs. NC Cables Ltd reported in 391 ITR 11 (Del) had also held the same, wherein, the approving authority had merely stated "approved" in the proforma while granting approval in terms of section 151 of the Act. This approval was held by the Hon'ble Jurisdictional High court to be a mechanical approval. The relevant observation of the Hon'ble Jurisdictional High Court in this regard are reproduced herein:-

11. Section 151 of the Act clearly stipulates that the CIT (A), who is the competent authority to authorize the reassessment notice, has to apply his mind and form an opinion. The mere appending of the expression 'approved' says nothing. It is not as if the CIT (A) has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise appears to have been ritualistic and formal rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be disturbed.

12. The substantial questions of law framed are answered in favour of the assessee and against the Revenue. The appeal is dismissed."

4. Respectfully following the aforesaid decisions, we hold that the reopening has been made in the instant case by not taking approval u/s 151 of the Act from the competent authority in the manner known to law. Accordingly, the entire reassessment proceedings are hereby quashed. Hence, one of the legal grounds challenging the validity of assumption of jurisdiction u/s 147 of the Act is allowed in the above mentioned terms. Since the reassessment is quashed, the other legal grounds raised by the assessee as well as the grounds raised by the assessee on merits need not be adjudicated and they are left open.

5. Since, the quantum assessment is quashed on invalid assumption of jurisdiction u/s 147 of the Act, the other appeal of the assessee in ITA No. 1413/Del/2021 challenging the levy of penalty u/s 271(1)(c) of the Act will have no legs to stand.

6. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 03/12/2024.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated:03/12/2024
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi