

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं. / ITA No.258/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2011-12)

Shri Anil Kumar Yadav (L/H Smt. Long Shree) Main Bazar, Karhal Mainpuri 205001	बनाम/ Vs.	ITO 4(2)(4) Mainpuri
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAAPY-8480-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Anurga Sinha (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Shailendra Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	20-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	28-03-2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 25-07-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s. 147 of the Act on 26-12-2018. The sole grievance of the assessee is computation of capital gains. The registry has noted delay of 297 days in the appeal which stand condoned.
2. The Ld. AR, at the outset, assailed validity of reassessment jurisdiction by placing on record the approval granted by Ld. Pr. CIT to

contend that the approval was granted in a mechanical manner and therefore, the assessment is liable to be quashed. The Ld. AR referred to various judicial decisions to support the same. The Ld. Sr. DR vehemently pleaded that the approval was validly given. Having heard rival submissions, the appeal is disposed-off as under.

3. Since the legal issue goes to the root of the matter and question the very validity of reassessment jurisdiction, we take up the same first. We find that the approval has been granted by approving authority by stating that *“Yes I am satisfied on the reasons record by the AO as at ‘A’ that it is a fit case for issue of notice u/s 148 of the I.T.Act.”*. The approval given in this manner would not stand the scrutiny of law as per the decision of Hon’ble Madhya Pradesh High Court in the case **S. Goyanka Lime and Chemicals Ltd. (56 Taxmann.com 390)**. The revenue’s Special Leave Petition against the same has been dismissed by Hon’ble Supreme Court which is reported as 64 Taxmann.com 313. In this decision, Hon’ble High Court dismissed the appeal of the revenue by observing as under: -

7. We have considered the rival contentions and we find that while according sanction, the Joint Commissioner, Income Tax has only recorded so "Yes, I am satisfied". In the case of Arjun Singh (supra), the same question has been considered by a Coordinate Bench of this Court and the following principles are laid down:—

'The Commissioner acted, of course, mechanically in order to discharge his statutory obligation properly in the matter of recording sanction as he merely wrote on the format "Yes, I am satisfied" which indicates as if he was to sign only on the dotted line. Even otherwise also, the exercise is shown to have been performed in less than 24 hours of time which also goes to indicate that the Commissioner did not apply his mind at all while granting sanction. The satisfaction has to be with objectivity on objective material.'

8. If the case in hand is analysed on the basis of the aforesaid principle, the mechanical way of recording satisfaction by the Joint Commissioner, which accords sanction for issuing notice under section 148, is clearly unsustainable and we find that on such consideration both the appellate authorities have interfered into the matter. In doing so, no error has been committed warranting reconsideration. 9. As far as explanation to Section 151, brought into force by Finance Act, 2008 is concerned, the same only pertains to issuance of notice and not with regard to the manner of recording satisfaction. That being so, the said amended provision does not help the revenue.

10. In view of the concurrent findings recorded by the learned appellate authorities and the law laid down in the case of Arjun Singh (supra), we see no question of law involved in the matter, warranting reconsideration.

11. The appeals are, therefore, dismissed.

In the present appeal, it is quite evident that the required satisfaction has been recorded by approving authority in a similar manner. Apparently, there is no application of mind while according the approval for reopening the case of the assessee and the approval has been given in a mechanical manner. This being the case, respectfully following the aforesaid binding judicial precedent, we quash the assessment proceedings. The other grounds have been rendered merely academic in nature.

4. The appeal sand allowed in terms of our above order.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28-03-2025

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA