

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 2429/Del/2023
(Assessment Year: 2012-13)

Sunil Kumar Jain, C/o. Kapil Goel, Adv, F-26/124, Sector-7, Rohini, Delhi	Vs.	ITO, Ward-61(3), New Delhi
PAN:		
APPELLANT		RESPONDENT
PAN: AAUPJ2703P		

Assessee by :	Dr. Kapil Goel, Adv
Revenue by:	Shri Sanjay Kumar, Sr. DR
Date of Hearing	11/02/2025
Date of pronouncement	15/04/2025

ORDER

1. The appeal in ITA No.2429/Del/2023 for AY 2012-13 arises out of the order of the Id. Commissioner of Income Tax (Appeals)-27, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. CIT(A), Delhi-20/10589/2019-20 dated 10.08.2023 against the order of assessment passed u/s 147 r.w.s. (143(3)144 of the Income-tax Act, 1961 dated 12.12.2019 (hereinafter referred to as 'the Act') by ITO, Ward-61(3), New Delhi (hereinafter referred to as 'Id. AO').

2. At the outset, I find that the additional ground raised by the assessee, stating that the reassessment order framed does not contain Document Identification Number (DIN) and accordingly in view of the CBDT Circular No. 19/2019, the said reassessment order deserves to be quashed, was stated to be not pressed by the learned AR at the time of hearing. The same is reckoned as a statement made from the bar and accordingly, the additional ground is not even admitted for hearing.

3. The only effective issue to be decided in this appeal is as to whether the learned AO had validly assumed jurisdiction under section 147 of the Act to reopen the case in the facts and circumstances of the instant case.

4. have heard the rival submissions and perused the materials available on record. The assessee is a Chartered Accountant running his proprietorship concern SKJ Associates. The return of income for the assessment year 2012-13 was filed by the Assessee on 31-07-2012 declaring total income of Rs. 4,24,560/-, showing income from profession, capital gains and other sources. No regular assessment was framed on the said return filed by the Assessee. An information was received from DDIT (Investigation), Sriganaganagar reporting that Assessee had received commission at the rate of 0.75% for arranging accommodation entries for Supreme Group. The Supreme Group had introduced their unaccounted income through accommodation entries in the form of bogus share capital / share premium received from shell companies namely, M/s GRG Mercantiles Pvt. Ltd., M/s Disha Commercial Pvt. Ltd., M/s Balbir Investment Pvt. Ltd., and M/s. Preet Milk Food Pvt. Ltd. During the course of investigation, the Assessee had admitted in his statement that the above mentioned companies were used to provide accommodation entries. He further stated that most of the accommodation entries were done by one Shri Satish Monga, CA, who was his partner. Subsequently, Shri Satish Monga also admitted in his statement recorded at the time of search at his place that he had directly facilitated accommodation entries to Supreme Group of Companies. He further stated that Shri Satish Monga had received 2.2% commission for providing share premium accommodation entries and received a net income of 1.5% which was shared between himself and his partner Shri Sunil Kumar Jain (Assessee) herein). With this information, the case of the Assessee was sought to be reopened by the Learned AO vide issuance of notice under Section 148 of the Act dated 19-03-2019. In response to the notice issued under section 148 of the Act, the Assessee filed his reutrn of income on 04-11-2019 declaring the

same income of Rs 4,24,560/-. The reasons recorded for reopening the assessment were duly furnished to the assessee. The reasons recorded for reopening the assessment are enclosed in pages 2 to 4 of the paper book. On perusal of the said reasons, I find that there is absolutely no quantification of income that had escaped assessment in the hands of the Assessee. Further I find that there was no date mentioned in the reasons recorded at all. Hence it could be safely concluded that the undated reasons were recorded and supplied to the assessee. Further the Learned AR before me argued that the approval obtained in terms of section 151 of the Act need to be furnished to the assessee along with the reasons recorded, which was not done in the instant case by the Learned AO, thereby becoming fatal to the re-assessment proceedings itself. I find that this issue is no longer res integra in view of the decision of the Hon'ble Jurisdictional High Court in the case of Tia Enterprises Pvt Ltd vs ITO reported in 468 ITR 5 (Del) wherein it was held as under:-

"13. To our minds, the approval granted by the statutory authorities, as required under the provisions of the Act, has to be furnished to an assessee along with the reasons to believe. The statutory scheme encapsulated in the Act provides that reassessment proceedings cannot be triggered till the Assessing Officer has reasons to believe that income, which is otherwise chargeable to tax, has escaped assessment and the reasons recorded by him are placed before the specified authority for grant of approval to commence the process of reassessment."

4.1. In the aforesaid case, the Hon'ble Delhi High Court also took note of the fact that the approval under section 151 of the Act was not obtained by that Assessing Officer as otherwise there could be no reason as to why the same was not supplied to that assessee along with the reasons. Hence it is very clear that the approval obtained under section 151 of the Act need to be supplied along with the reasons to the assessee for further course of action. Since the same is not done in the instant case before me, it becomes fatal to the entire re-assessment proceedings itself and accordingly the re-assessment proceedings deserve to be quashed accordingly. I find that the aforesaid decision of Hon'ble

Delhi High Court has been subjected to further appeal by the revenue before the Hon'ble Supreme Court and Special Leave Petition (SLP) of the revenue was dismissed which is reported in 468 ITR 10 (SC) by a speaking order by observing as under:-

"2. In view of the categorical finding recorded in para 13 of the impugned judgement and in the facts of the case, no case for interference is made out in exercise of our jurisdiction under article 136 of the Constitution of India. The special leave petition is accordingly dismissed."

5. Respectfully following the aforesaid decisions, I hold that the entire assumption of jurisdiction under section 147 of the Act in the instant case is flawed and accordingly the reassessment proceedings are hereby quashed. Since the entire re-assessment is quashed on technical ground, the other grounds need not be gone into and they are left open. Accordingly, the grounds raised by the assessee are allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 15/04/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 15/04/2025
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi