

**आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कोलकाता**

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH KOLKATA

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं/ITA No.935/KOL/2025

(निर्धारण वर्ष / Assessment Year :2017-2018)

Anshul Singh C/o S.N. Ghosh & Associates, Advocates, 2, Garstin Place, 2 <sup>nd</sup> floor, Suite No.203, Off hare Street, Kolkata-700001, West Bengal	Vs	ITO, WD 49(1), Kolkata Ds-4, Uttarapan Complex, Ultadanga, Maniktala Civic centre, Kolkata-700054, West Bengal
PAN No. :CSRPS9550G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Somnath Ghosh, AR
राजस्व की ओर से /Revenue by	:	Shri S.B. Chakraborty, Addl. CIT-Sr.DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	03/07/2025
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	03/07/2025

**आदेश / O R D E R**

This is an appeal filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 12.02.2025, passed for the assessment year 2017-18.

2. Shri Somnath Ghosh, Id. AR appeared on behalf of the assessee and Shri S.B.Chakraborty, Id.Sr. DR appeared on behalf of the revenue.

3. Ld.AR drew my attention to the reasons recorded for reopening which is mentioned in para 2 of the assessment order, reads as follows :-

*“2. As per the information available that-*

*Credible information was received from the office of DDIT(INV.), UNIT-2(1), Kolkata that the assessee has deposited cash of Rs.7,46,000/- during demonetization on OHD notes.*

*From the details available it was found that the assessee has deposited the said cash during demonetization in the bank account maintained by him with Corporation Bank, Baguiati branch. The same details is also available in ITS details of the*

*assessee. However, the source of such huge cash in OHD notes is not ascertained as per financials of the assessee.”*

4. It was the submission that no further verification has been done by the Assessing Officer before issuing notice u/s.148 of the Act and in view of the principle laid down by the Hon'ble Delhi High Court in the case of Well Trans Logistics India (P) Ltd., reported in [2024] 166 taxmann.com 72 (Delhi), as no further investigation has been done by the Assessing Officer in respect of the information received from the DDIT(INV) UNIT-2(1), Kolkata being reopening held to be quashed.

5. In reply, Id. Sr. DR submitted that the availability of the information is enough for the purpose of reopening. It was the submission that the assessee has also not provided all the details in regard to the source of cash deposits even though the assessee is showing that the amounts are out of his cash book of the assessee. It was the submission that the addition made by the Assessing Officer and confirmed by the Id. CIT(A) is liable to be upheld.

6. I have considered the rival submissions. A perusal of the decision of the Hon'ble Delhi High Court in the case of Well Trans Logistics India (P) Ltd., referred to supra, clearly shows that in para 24 to 27, the Hon'ble High Court has held as follows :-

*24. We may note that the Assessing Officer after reproducing the information received from DDIT, (Investigation) Unit, drew the conclusion of escapement of income. In the case of Asst. CIT v. Rajesh Jhaveri Stock Brokers Pvt. Ltd. (2007) 291 IR 500 (SC), the Supreme Court had explained that expression "reason to believe" would mean justification to know or suppose that income had escaped assessment. While, it is correct that it is not necessary for the Assessing Officer to finally ascertain whether income had*

*escaped assessment, nonetheless, the Assessing Officer must have sufficient cause to believe that it has.*

*25. In the present case, as may be seen, there is no "close nexus" or "live link" between tangible material and the reason to believe that income has escaped assessment. The information received from the Investigating Unit of the Revenue cannot be the sole basis for forming a belief that income of the assessee has escaped assessment. Having received information from the Investigating Wing, it was incumbent upon the Assessing Officer to take further steps, make further enquiries and garner further material and if such material indicate that the income of the assessee has escaped assessment and then form a belief that the income of the assessee has escaped assessment.*

*26. Clearly, in this case, the Assessing Officer has not acquired any material to form such belief. There is not even a line of reason which may justify the formation of the belief. Consequently, we are satisfied that reopening of assessment for the assessment year in question by the Assessing Officer does not satisfy the requirement of law in terms of Section 147 & 148 of the Act.*

*27. Consequently, the writ petition is allowed. The impugned reassessment notice dated 22.03.2018 issued under Section 148 of the IT Act and further proceedings, if any, initiated pursuant to the said notice dated 22.03.2018 are set aside.*

7. In the present case also, the facts are similar. This being so, respectfully following the decision of the Hon'ble Delhi High Court in the case of Well Trans Logistics India (P) Ltd.(supra), the notice issued u/s.148 of the Act is held to be bad in law and the same is hereby quashed and consequential assessment order is also quashed.

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

Order dictated and pronounced in the open court on 03/07/2025.

Sd/-

(जार्ज माथन)

**(GEORGE MATHAN)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**कोलकाता** Kolkata; दिनांक Dated 03/07/2025

*Prakash Kumar Mishra, Sr.P.S.*

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,  
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**आदेशानुसार/ BY ORDER,**

**(Assistant Registrar)  
Income Tax Appellate Tribunal, Kolkata**