

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**ITA No.94/Ind/2021 (AY:2011-12)**

JCIT (OSD)-(Central)-1 Bhopal	<b><u>बनाम/</u></b> Vs.	M/s. Shakshi Township Pvt. Ltd., S-36 Sanjay Complex, Jayendraganj, Lashkar Gwalior-474001
(Revenue/Appellant)		(Assessee/Respondent)

**Cross-Objection No.04/Ind/2023 (AY: 2011-12)**

M/s. Shakshi Township Pvt. Ltd., S-36, Sanjay Complex, Jayendraganj, Lashkar Gwalior-474001	<b><u>बनाम/</u></b> Vs.	JCIT (OSD)-(Central)-1 Bhopal
(Assessee/Cross-Objector)		(Revenue/Respondent)

<b>PAN: AAQCS1892P</b>	
Assessee by	Shri Arpit Gaur, AR
Revenue by	Shri Ram Kumar Yadav, CIT-DR
Date of Hearing	27.03.2025
Date of Pronouncement	23.06.2025

**आदेश / ORDER**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first appeal dated 05.02.2021 passed by Commissioner of Income-tax (Appeal)-3, Bhopal ["CIT(A)"] which in turn arises out of assessment-order dated 18.12.2018 passed by DCIT, Central-I, Bhopal ["AO"] u/s 148 r.w.s. 143(3) of the Income-tax Act,

1961 ["the Act"] for assessment-year ["AY"] 2011-12, the revenue has filed captioned appeal and the assessee has filed captioned cross-objection.

2. The background facts leading to these matters as culled out from assessment-order passed by AO are such that the assessee-company is engaged in the business of land developers. For AY 2011-12, the assessee filed original return u/s 139 on 19.01.2013 declaring total income of Rs. Nil which was assessed u/s 143(1). Subsequently, the case of assessee was re-opened u/s 147 through notice dated 28.03.2018 u/s 148 after recording reason that the assessee-company had introduced capital of Rs. 20,00,000/- and also raised loans of Rs. 4,77,62,500/-. Due to change in incumbency, notice u/s 129 was issued on 30.11.2018 giving a fresh opportunity to assessee. On the very same date of 30.11.2018, a copy of reasons recorded was also provided to assessee and a notice u/s 142(1) was also issued wherein the assessee was requested to file return and date of hearing was fixed on 07.12.2018. The assessee did not comply, hence the AO issued notice for best judgement u/s 144. However, the assessee filed objection on 11.12.2018 and also Shri Neelesh Sharma, director of assessee-company and Shri Manoj Goyal, CA appeared on 12.12.2018. The objection filed by assessee was disposed of vide order-sheet entry dated 12.12.2018. Thereafter, vide letter dated 12.12.2018, the assessee requested the AO to treat its original return filed u/s 139 as a return in compliance to notice u/s 148. Then, the AO issued notices u/s 143(2)/142(1) but the assessee did not make compliances, only an adjournment request was filed. Ultimately,

the AO observed non-compliances of various notices by assessee and concluded that despite ample opportunities given, the assessee did not offer any explanation justifying genuineness and veracity of the capital introduced and the unsecured loans received by it. Accordingly, the AO made a total addition of Rs. 4,97,62,500/- u/s 68 consisting of (i) unexplained share capital – Rs. 20,00,000/- and (ii) unexplained loans – Rs. 4,77,62,500/- and passed reassessment-order determining total income at Rs. 4,97,62,500/-. Aggrieved, the assessee carried matter in first-appeal before CIT(A).

3. Before CIT(A), the assessee challenged the order of AO on legality as well as merit. The CIT(A) rejected assessee's legal claim but deleted additions on merit. This way, the CIT(A) partly allowed assessee's first-appeal.

4. Now, both sides are aggrieved by the order of CIT(A). While the revenue has filed captioned appeal, the assessee has filed captioned co-objection. We first take up assessee's cross-objection since it raises a legal claim.

***Assessee's Cross-Objection:***

5. The assessee has raised following ground:

*"On the facts and in the circumstances of the case and in law the order of the Ld. CIT(A) in confirming the action of the Assessing Officer u/s 147/148 of the Act and the action of the authorities u/s 127 of the Act culminating in the subject assessment is arbitrary, erroneous and illegal and must be quashed."*

6. Thus, by means of this cross-objection, the assessee has challenged the legality of assessment framed by AO raising two issues, namely (i) the action undertaken by AO u/s 147/148 was itself illegal and (ii) the AO i.e. DCIT, Central-I, Bhopal had no jurisdiction u/s 127 against assessee.

7. At first, Ld. AR for assessee drew us to Page 1 of impugned order of first-appeal to demonstrate that the assessee raised following Ground 2 in first-appeal before CIT(A):

*"2(i) On the facts and circumstances of the case, the order passed by the DCIT, Central-I, Bhopal is without jurisdiction and hence liable to be quashed.*

*(ii) Without prejudice to the above, the transfer of jurisdiction from Gwalior to Bhopal under section 127, without giving assessee an opportunity of being heard, is bad in law."*

Then, Ld. AR drew us to the order passed by CIT(A) adjudicating this ground, reading as under:

*"4.2 **Ground No. 2:** Through this ground of appeal the appellant has challenged that the AO has passed the order without jurisdiction. The AO has issued the notice u/s 148 and served upon the appellant on 28.03.2018. Subsequently notice u/s 142(1) was issued and served on 30.11.2018. The appellant filed the objection on 11.12.2018. Subsequently, Shri Neelesh Sharma, director of company and Shri Manoj Goyal, CA appeared on 12.12.2018. The objection filed by appellant has been disposed off vide order-sheet notice dated 12.12.2018 and the same has been communicated to the appellant. The appellant filed the letter dated 12.12.2018 stating that return of income filed u/s 139 may be treated as return of income in response to notice u/s 148 of the IT Act, 1961.*

*4.2.1 Once the assessee has participated in assessment proceedings before the A.O., the appellant assessee cannot claim that issue of notice u/s 148/142(1) is not in order. Once the assessee has been put to notice and has filed returns in response to the notices and has attended the assessment proceedings, it cannot be said that issue of notice u/s 148/142(1) is not in order. It is seen that the issue of notice u/s 148 by the AO for A.Y. 2011-12 is in order and issue of notice u/s 143(2) for A.Y. 2011-12 is within time.*

*4.2.2 In view of the above, the ground taken by the appellant that the issue of notices u/s 148/142(1) for A.Y. 2011-12 is not justified, has no merit and is therefore, rejected. Therefore, appeal on this ground is **Dismissed**."*

8. Ld. AR submitted that a careful reading of CIT(A)'s order clearly shows that the CIT(A) has dismissed assessee's Ground No. 2 by assigning the reason simpliciter that the assessee had participated in the proceedings set up by AO through notices u/s 148 & 143(2) issued in time. Ld. AR contended that the reasoning assigned by CIT(A) is grossly bad as mere participation in illegal proceeding cannot make the proceeding legal. Further, the assessee has very much objected to the proceeding undertaken by AO (as would be discussed in subsequent paras with reference to the documents filed in Paper-Book) but the AO rejected assessee's objection and continued with his proceeding, therefore the assessee had no option. That apart, Ld. AR contended very strongly, the CIT(A) has dismissed assessee' ground No. 2 even without dealing the claim raised by assessee in sub-ground (ii) thereof wherein the assessee has categorically claimed that the transfer of jurisdiction from Gwalior to Bhopal u/s 127, without giving assessee an opportunity of being heard, was absolutely bad in law. The assessee also filed a vehement submission to CIT(A) qua this claim which is re-produced by CIT(A) himself at Pages 9-14 of impugned order but still the CIT(A) has not considered assessee's claim. Therefore, the CIT(A)'s order dismissing the ground No. 2 raised by assessee before him, is grossly erroneous and must be reversed by this bench taking into account the detailed discussions in subsequent paras.

9. Having made his submissions qua the order passed by CIT(A), Ld. AR next proceeded to explain the twin issues raised by assessee in the ground of cross-objection, one by one, and the Ld. DR for revenue made his defensive submissions. We discuss below the rival submissions made by both sides and also our analysis and conclusion thereon.

**Issue No. 1:**

10. The *first* limb of the ground taken by assessee in cross-objection is such that the action undertaken by AO u/s 147/148 was itself illegal.

11. For this issue, Ld. AR carried us to the reasons recorded by AO u/s 148 for issuance of notice, placed at Page 24 of Paper-Book-I as under:

24

Reasons for Income Escaping Assessment u/s 148

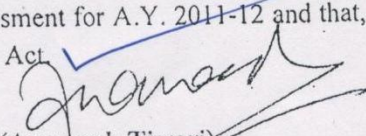
Name of the Assessee	M/s. Shakshi Township Pvt. Ltd.
Address	S-36, Sanjay Complex, Jayendraganj, Gwalior- 474001
PAN	AAQCS1892P
Status	Company
A.Y.	2011-12

Information has been received from the DIT(I & CT), Bhopal, Shri Neelesh Sharma, Shiwaji Marg, Birla Nagar, Gwalior, who is Director of M/s. Shakshi Township Pvt. Ltd., had purchased immovable property valued Rs. 4,77,20,000/- during the F.Y. 2010-11. Thereafter, on verification/enquiry it was found the said transaction was not related to Shri Neelesh Sharma, the same is related to M/s. Shakshi Township Pvt. Ltd. in which Shri Neelesh Sharma is one of the directors and sale consideration amount of the immovable property was paid by the company. M/s. Shakshi Township Private Limited has been incorporated on 28-10-2010 and fresh share amounting to Rs. 20 lacs was introduced by the company and unsecured loan amounting to Rs. 4.77 crore was taken from the directors and shareholders. For the year under consideration, the assessee filed return of income declaring total income of Rs. Nil on 19/01/2013. Further, as per the information mentioned previously it was found that the share capital introduced was only Rs. 20 lacs. Apparently, no business activities were carried out by the assessee company and the unsecured loans raised prima facie appear to be non-genuine.

The information is received from credible source hence, on considering the information as well as the details available with this office related to M/s. Shakshi Township Pvt. Ltd. and also the fact that one of the creditor Shri RS Shivhare whose case is pending before scrutiny has so far not explained the source of unsecured loan and has so far not accepted the fact that he has given unsecured loan to M/s. Shakshi Township Pvt. Ltd.. Therefore, I am of the belief that the unsecured loan mentioned above is unexplained and hence, the total income disclosed by M/s. Shakshi Township Pvt. Ltd. is not correct.

I am also of the belief that the failure is on the part of the assessee to not to disclose the correct material facts while filing the ROI for A.Y. 2011-12.

Considering the facts discussed above I have reason to believe that an income of Rs. 4,77,20,000/- which is chargeable to tax has escaped assessment for A.Y. 2011-12 and that, it is a fit case for income escaping assessment u/s 147 of the Act.

  
(Avaneesh Tiwari)  
Dy. Commissioner of Income Tax (Central)-I  
Bhopal

Reading line by line in open court, Ld. AR narrated that the case of assessee was re-opened with the reasoning that an information was received from DIT (I&CT), Bhopal about the purchase of property for Rs. 4,77,20,000/- by a director of assessee-company and it is noted that the purchase was in fact by assessee-company and the consideration was paid by assessee-company; that the assessee-company received funds by way of (i) share capital of Rs. 20 lacs and (ii) unsecured loans of Rs. 4.77 crores from directors and shareholders which were unexplained and it is particularly mentioned that one Shri Ramswaroop Shivhare whose assessment was pending had not explained the source of loan and had not even accepted the unsecured loan given by him to assessee-company.

12. Ld. AR then carried us to the following documents obtained by assessee from Income-tax Department under RTI Act, placed in Paper-Book-III at Pages 1 to 11:



भारत सरकार

Government of India

वित्त मंत्रालय (राजस्व विभाग)

Ministry of Finance (Department of Revenue)

कार्यालय उपायुक्त आयकर (केन्द्रीय)-I, भोपाल

OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX-CENTRAL -I, BHOPAL

कक्ष क.-301, अरेरा हिल्स, आयकर भवन, होशंगाबाद रोड, भोपाल - 462011

Room No. - 301, Arera Hills, Aayakar Bhawan, Hoshangabad Road, Bhopal - 462011

Phone: 0755-2525407

F.No./DCIT(C)-I/BPL/2017-18/

886

Date: 18/07/2017

To:

The Addl. Commissioner of Income Tax (Central),  
Bhopal

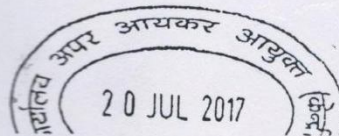
Madam,

**Sub: Assessment proceedings/centralization in the case of M/s Shakshi Township (P) Ltd., S-36, Sanjay Complex, Jayendraganj, Gwalior-474001, PAN: AAQCS1892P an assessee of Shivhare Group-reg-**

Kindly refer to the above,

In this regard, it is submitted that, case of M/s Shakshi Township (P) Ltd., S-36, Sanjay Complex, Jayendraganj, Gwalior-474001, PAN: AAQCS1892P was centralized with this office vide order u/s 127 dated 15.09.2016 (copy enclosed). The only finding with regard to M/s Shakshi Township (P) Ltd., in the Appraisal report is from page 554 to 556 (Volume-III, Chapter-9, Para No. 9.4.1). As per Appraisal Report, the assessee company has taken unsecured loan of Rs. 4.77 crores from its directors and shareholders, in which Shri Ramswaroop Shivhare, shareholder has given unsecured loan to the assessee company amounting to Rs. 2,00,85,004/-. Further, it has been advised to examine the source of investment made by Shri Ramswaroop Shivhare.

These findings are based on the report of ITO, I&CI, Gwalior, on the basis of enquiries conducted for AIR information cases. The report of ITO, I&CI, Gwalior, is scanned as under:




AL

(2)

Pl. forward it to BPL  
JDIT (Inv) office  
आ.अ. (मुख्यालय) ऑफिस  
रूपया प्रस्तुत करें/ रिपोर्ट मंगवाये, get H  
प्रधान आ.निदे. (अन्व.) भोपाल  
from JDIT Gwalior  
on priority

06 JUL 2015  
भोपाल

  
Office of the  
Income Tax Officer (Intelligence & Criminal Investigation)  
Aayakar Bhawan, City Centre, Gwalior (M. P.)

ITOI & CI/Gwl./verification/7/2015-16/ 249 Dated: 27.06.2016

To, fr.  
The Director of Income Tax (Investigation),  
Aayakar Bhawan,  
Hoshangabad Road,  
Bhopal (MP)

Sir,  
Sub: Forwarding M/s Shakshi Township (P) Ltd., Jayendra Gani Gwalior, C-63, Govindpuri, Gwalior for taking necessary action under the provision of the Income Tax Act, 1961 - Reg.

Kindly refer to Chapter 'C'- Widening and deepening of Tax base in the Central Action Plan 2012-13 whereby the targets have been prescribed in certain key areas for the Directorate of Intelligence to take action in non-PAN/ invalid PAN cases reported in AIR/ CIB transactions related to F.Y.2010-11 and the actionable cases are to be disseminated to jurisdictional CCIT/ CIT/DIT.

In this regard, as per directions of the DIT (I&CI), Bhopal, with due respect I am sending herewith the verification report in the case as mentioned below along-with documents as submitted by the transacting party in support of such transactions. As per the AIR information Shri Neelesh Sharma, Shiwaji Marg, Birla Nagar, Gwalior Director of M/s Shakshi Township (P) Ltd., Sanjay Complex, Jayendra Ganj, Gwalior had purchased immovable property valued Rs.4,77,20,000/- during F.Y. 2010-11.

(i) But during the course of verification noticed that the impugned transaction was not related to Shri Neelesh Sharma, the same is related to M/s Shakshi Township (P) Ltd., S-36, Sanjay Complex, Gwalior in which the assessee is one of the Directors. Sale consideration amount of the immovable property has been paid by the company.

(ii) M/s Shakshi Township (P) Ltd has been incorporated from 28/10/2010. The Company filed ITR for the A.Y. 2011-12 relevant to financial year 2010-11 declaring total income of Rs.NIL.

(iii) During the year under consideration fresh share capital amounting to Rs.20 lacs has been introduced by the company. Further, the Company has taken unsecured loan amounting to Rs. 4.77 Crores from its Directors and Shareholders as under:-

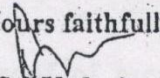
**M/s. Shakshi Township P. Ltd.**  
**ITA No.94/Ind/2021 & CO No.4/Ind/2023 - A.Y. 2011-12**

Name of Shareholders	PAN	Amount of unsecured loan (Rs)	Share Capital in the company (Rs.)
Ram Swaroop Shivhare	AGHPS8985R	2,00,85,004/-	9,00,000/-
Hari Prasad Agrawal	ABUPA9919P	51,89,060/-	1,50,000/-
Ved Prakash Agrawal	AYYPS3395N	92,62,5000/-	4,25,000/-
S N Sharma	AECPS4703A	57,89,060/-	75,000/-
Brij Mohan Laddha	AAIPL5191P	48,71,248/-	-
Ajay Builders and Consultants	AAZPB7874J	11,07,814/-	2,25,000/-
Neelesh Sharma	ATNPS7214E	2,50,000/-	2,25,000/-
Ajay Bansal & Sons		5,53,907/-	-
Prabha Sharma	AXVPS5700P	-	2,00,000/-
Gayatri Associates		6,53,907/-	-
Total		4,77,62,500/-	20,00,000/-

- (iv) In the case of Shri Ramswaroop Shivhare; who holds 45% share in the company; search and seizure operation has been carried during the month January 2016. Shri Ramswaroop Shivhare holds 45% share in the company and given unsecured loan amounting to Rs. 2,00,85,004/- to the company.

Since, this <sup>is</sup> may be a group case and search and seizure operation has already been carried out in case of Shri Ramswaroop Shivhare; who holds 45% share in the company. Therefore, the case of company M/s Shakshi Township (P) Ltd., Jayendra Ganj Gwalior (AAQCS1892P) is forwarded to Hone'ble DIT(Inv.), Bhopal for kind information and necessary action.

Encls: As above

Yours faithfully,  
  
(S.S. Yadav)  
ITO (I&CI), Gwalior

Copy submitted to:

The Director of Income Tax (I&CI), Bhopal for favour of kind information please.

ITO (I&CI), Gwalior

(4)

On perusal of the report mentioned above, it is clear that M/s Shakshi Township (P) Ltd. has purchased immovable property of Rs. 4,77,20,000/- during F.Y. 2010-11 and the source of this investment is receipt of unsecured loan of Rs. 4.77 crores from its directors and share holders. Nowhere in the report, the loan or source of investment has been stated as unaccounted. The only reason for centralization of this case as mentioned in the report is the presumption that this case may be a group case of Shivhare Group.

Apart from this report of ITO-I&CI, Gwalior, nowhere in the Appraisal Report any adverse finding with regard to M/s Shakshi Township (P) Ltd. has been mentioned.

Accordingly, a letter for clarification was issued to the DDIT(Inv.), Gwalior (Copy enclosed). In response to the letter, vide letter in F.No: DDIT (Inv)/GWL/Shakshi Township/2017-18/253, dated 17.07.2017, the DDIT has informed that the case of M/s Shakshi Township (P) Ltd. was proposed for centralization due to the reason that Shri Ramswaroop Shivhare is one of the directors in this company and holding 45% share in the aforesaid company and genuineness of the loan needs to be verified. Copy of this letter is enclosed herewith for ready reference.

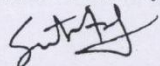
It is submitted that:

- i. The name of M/s Shakshi Township (P) Ltd. is not mentioned in any warrant. Hence, no proceedings u/s 153A of the Act can be initiated.
- ii. No seized material belongs to M/s Shakshi Township (P) Ltd. hence, no proceedings u/s 153C can be initiated.
- iii. No proceedings u/s 148 can be initiated as no proof of escapement of income is available. Merely for verification of certain transactions, proceedings u/s 148 cannot be initiated.
- iv. The DDIT(Inv.), Gwalior has not clarified as to when this loan was received by M/s Shakshi Township (P) Ltd. hence, the year receipt of loan is also not recognized.

In the light of above facts and discussion, no action in the case of M/s Shakshi Township (P) Ltd. is warranted. This is for your kind perusal and further necessary action at your end.

Encl:As above.

Yours faithfully,

  
(Swati Agarwal)

Dy. Commissioner of Income tax-(Central)-I.



GOVERNMENT OF INDIA,  
MINISTRY OF FINANCE  
(DEPTT. OF REVENUE)

OFFICE OF THE PR. COMMISSIONER OF INCOMETAX,  
AAYAKAR BHAWAN, CITY CENTER, GWALIOR-474011

कार्यालय / सहायक आयकर अधिकारी  
(केंद्रीय -I) भोपाल  
16 SEP 2016  
258  
हस्ताक्षर

**ORDER U/S. 127 OF THE INCOMETAX ACT, 1961** / 258  
**Dated:15.09.2016**

In exercise of powers conferred on me under sub-section (2) of section 127 of the Income Tax Act,1961 and all other powers enabling me in this behalf I, the Principal Commissioner of Income Tax, Gwalior hereby transfer the following cases, the particulars of which are mentioned in Column (2) below from the Assessing Officer mentioned in Col.(4) to the Assessing Officer mentioned in Column (5):-

**SCHEDULE**

S.No.	Name and address of the assessee.	PAN	From	To
1	2	3	4	5
1.	M/s Shakshi Township(P) Ltd.	AAQCS1892P	Income Tax Officer, Ward-1(1), Gwalior	DCIT (Central)-I, Bhopal

The wealth-tax cases, Gift-tax cases, FBT cases, if any, of the above-mentioned assesseees may also be transferred simultaneously.

This order shall take effect from 15-09-2016.

- sd/-

(SAROJ DESWAL)

Pr. Commissioner of Income Tax,  
Gwalior

Gwalior/Dated: 15-09-2016

F.No. Pr. CIT/Gwl/Tech./127/2016-17/

Copy to:-

1. The Pr. Chief Commissioner of Income Tax, Bhopal.
2. The Pr. Commissioner of Income Tax- Central, Aaykar Bhawan, Hoshangabad Road, Bhopal.
3. The Joint Commissioner of Income Tax, Range-1, Gwalior for information.
4. The Joint Commissioner of Income Tax- Central, Aaykar Bhawan, Hoshangabad Road, Bhopal.
5. The Income Tax Officer, Ward-1(1), Gwalior with a request to hand over the case records to the assessing Officer as above on top priority.
6. The Deputy Commissioner of Income Tax, Central-I, Bhopal 12637/6
7. The Assessee (through Assessing Officer concerned.)
8. The Notice Board.

S. Shrivastava

(Saurabh Shrivastava)  
Income Tax Officer(Tech.),

For Pr. Commissioner of Income tax, Gwalior.

(8)



भारत सरकार

Government of India

वित्त मंत्रालय (राजस्व विभाग)

Ministry of Finance (Department of Revenue)

कार्यालय उपायुक्त आयकर (केन्द्रीय)-I, भोपाल

OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX-CENTRAL -I, BHOPAL

कक्ष क.-301, अरेरा हिल्स, आयकर भवन, होशंगाबाद रोड, भोपाल - 462011

Room No. - 301, Arera Hills, Aayakar Bhawan, Hoshangabad Road, Bhopal - 462011

Phone: 0755-2525407

F.No./DCIT(C)-I /BPL /2017-18/ 369-373

Date: 02/06/2017

To,

The Asst./Dy. Director of Income Tax (Inv.),  
Gwalior

Sir/Madam

**Sub:** Request for clarification in the case of M/s Shakshi Township (P) Ltd., S-36, Sanjay Complex, Jayendraganj, Gwalior-474001, PAN: AAQCS1892P an assessee of Shivhare Group-reg-

Kindly refer to the above,

In this regard, it is submitted that, case of M/s Shakshi Township (P) Ltd., S-36, Sanjay Complex, Jayendraganj, Gwalior-474001, PAN: AAQCS1892P was centralized with this office on 15.09.2016. The only finding with regard to M/s Shakshi Township (P) Ltd., in the Appraisal report is from page 554 to 556 (Volume-III, Chapter-9, Para No. 9.4.1). As per Appraisal Report, the assessee company has taken unsecured loan of Rs. 4.77 crores from its directors and shareholders, in which Shri Ramswaroop Shivhare, shareholder has given unsecured loan to the assessee company amounting to Rs. 2,00,85,004/-. Further, it has been advised to examine the source of investment made by Shri Ramswaroop Shivhare.

These findings are based on the report of ITO, I&CI, Gwalior, on the basis of enquiries conducted for AIR information cases. The report of ITO, I&CI, Gwalior, is scanned as under:



Office of the  
Income Tax Officer (Intelligence & Criminal Investigation)  
Aayakar Bhawan, City Centre, Gwalior (M. P.)

ITO/I & CI/Gwl./verification/7/2015-16/

Dated: 27.06.2016

To, *Pr.*  
The Director of Income Tax (Investigation),  
Aayakar Bhawan,  
Hoshangabad Road,  
Bhopal (MP)

Sir,  
Sub: Forwarding M/s Shakshi Township (P) Ltd., Jayendra Ganj Gwalior, C-63, Govindpuri, Gwalior for taking necessary action under the provision of the Income Tax Act.1961 - Reg.

Kindly refer to Chapter 'C'- Widening and deepening of Tax base in the Central Action Plan 2012-13 whereby the targets have been prescribed in certain key areas for the Directorate of Intelligence to take action in non-PAN/ invalid PAN cases reported in AIR/ CIB transactions related to F.Y.2010-11 and the actionable cases are to be disseminated to jurisdictional CCIT/ CIT/DIT.

In this regard, as per directions of the DIT (I&CI), Bhopal, with due respect I am sending herewith the verification report in the case as mentioned below along-with documents as submitted by the transacting party in support of such transactions. As per the AIR information Shri Neelesh Sharma, Shiwaji Marg, Birla Nagar, Gwalior Director of M/s Shakshi Township (P) Ltd., Sanjay Complex, Jayendra Ganj, Gwalior had purchased immovable property valued Rs.4,77,20,000/- during F.Y. 2010-11.

- (i) But during the course of verification noticed that the impugned transaction was not related to Shri Neelesh Sharma, the same is related to M/s Shakshi Township (P) Ltd., S-36, Sanjay Complex, Gwalior in which the assessee is one of the Directors. Sale consideration amount of the immovable property has been paid by the company.
- (ii) M/s Shakshi Township (P) Ltd has been incorporated from 28/10/2010. The Company filed ITR for the A.Y. 2011-12 relevant to financial year 2010-11 declaring total income of Rs.NIL.
- (iii) During the year under consideration fresh share capital amounting to Rs.20 lacs has been introduced by the company. Further, the Company has taken unsecured loan amounting to Rs. 4.77 Crores from its Directors and Shareholders as under:-

Name of Shareholders	PAN	Amount of unsecured loan (Rs)	Share Capital in the company (Rs.)
Ram Swaroop Shivhare	AGHPS8985R	2,00,85,004/-	9,00,000/-
Hari Prasad Agrawal	ABUPA9919P	51,89,060/-	1,50,000/-
Ved Prakash Agrawal	AYYPS3395N	92,62,5000/-	4,25,000/-
S N Sharma	AECPS4703A	57,89,060/-	75,000/-
Brij Mohan Laddha	AAIPL5191P	48,71,248/-	-
Ajay Builders and Consultants	AAZPB7874J	11,07,814/-	2,25,000/-
Neelesh Sharma	ATNPS7214E	2,50,000/-	2,25,000/-
Ajay Bansal & Sons		5,53,907/-	-
Prabha Sharma	AXVPS5700P	-	2,00,000/-
Gayatri Associates		6,53,907/-	-
Total		4,77,62,500/-	20,00,000/-

- (iv) In the case of Shri Ramswaroop Shivhare; who holds 45% share in the company; search and seizure operation has been carried during the month January 2016. Shri Ramswaroop Shivhare holds 45% share in the company and given unsecured loan amounting to Rs. 2,00,85,004/- to the company.

Since, this may be a group case and search and seizure operation has already been carried out in case of Shri Ramswaroop Shivhare; who holds 45% share in the company. Therefore, the case of company M/s Shakshi Township (P) Ltd., Jayendra Ganj Gwalior (AAQCS1892P) is forwarded to Hon'ble DIT(Inv.), Bhopal for kind information and necessary action.

Yours faithfully,

(S.S. Yadav)  
ITO (I&CI), Gwalior

Encls: As above

Copy submitted to:

The Director of Income Tax (I&CI), Bhopal for favour of kind information please.

ITO (I&CI), Gwalior

9

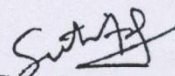
On perusal of the report mentioned above, it is clear that M/s Shakshi Township (P) Ltd. has purchased immovable property of Rs. 4,77,20,000/- during F.Y. 2010-11 and the source of this investment is receipt of unsecured loan of Rs. 4.77 crores from its directors and share holders. Nowhere in the report, the loan or source of investment has been stated as unaccounted. The only reason for centralization of this case as mentioned in the report is the presumption that this case may be a group case of Shivhare Group.

Apart from this report of ITO-I&CI, Gwalior, nowhere in the Appraisal Report any adverse finding with regard to M/s Shakshi Township (P) Ltd. has been mentioned.

In the light of above facts, no action in the case of M/s Shakshi Township (P) Ltd. is warranted. Hence, it is requested to clearly specify as to what action is required to be taken in the case of assessee company. As the group in itself is time barring hence, it is requested to provide necessary details as required at the earliest.

Yours faithfully,

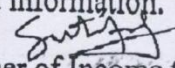
Encl: As above.

  
(Swati Agarwal)

Dy. Commissioner of Income tax-(Central)-I,  
Bhopal


Copy to:

1. The Pr. Commissioner of Income Tax (Central), Bhopal for kind information.
2. The Director of Income Tax (Inv.), Bhopal for kind information.
3. The Addl. Commissioner of Income Tax (Central), Bhopal for kind information.
4. The Jt. Director of Income Tax (Inv.), Gwalior, for kind information.

  
Dy. Commissioner of Income tax-(Central)-I,  
Bhopal

o/c

(70)

  
Govt. of India  
Ministry of Finance (Deptt. of Revenue)  
OFFICE OF THE  
DEPUTY DIRECTOR OF INCOME TAX (INVESTIGATION)-1  
Room No. 204, Aayakar Bhawan, City Centre, Gwalior, Ph/Fax No. 0751-2341943

कार्यालय उप / सहायक आयकर अधिकारी  
(केन्द्रीय -1), भोपाल  
18 JUL 2017  
क्र. \_\_\_\_\_  
हस्ताक्षर \_\_\_\_\_

F. No: - DDIT (Inv)/GWL/Shakshi Township/2017-18/ 253 Dated: - 17-07-2017

To,  
✓ The Dy. Commissioner of Income Tax-(Central)-1,  
Bhopal (M.P.)

Madam,

Sub- Clarification in the case of M/s Shakshi Township Pvt Ltd, S-36, Sanjay Complex, Jayendarganj, Gwalior (PAN- AAQCS1892P) reg-

Kindly refer to the above.


In this regard, it is submitted that, the Search seizure action has been carried out on Shivhare Group on dated 07-01-2016. At the time of preparation of Appraisal report in the case of Shivhare Group, the letter received from ITO I & CI through JDIT Bhopal for necessary action. On perusal of this report it is noticed that M/s Sakhshi Township Pvt Ltd, S-36, Sanjay Complex, Jayendraganj, Gwalior has been incorporated form 28/10/2010. Company has purchased a land. The main directors of this company are named as under: -

Name of the Shareholders	PAN	Amount of unsecured Loan Rs.	Share capital in company
Sh Ram swaroop Shivhare	AGHPS8985R	2,00,85,004/-	9,00,000/-
Sh Hari Prasad Aggarwal	ABUPA9919P	51,89,060/-	1,50,000/-
Sh Ved Prakash	AYYPS3395N	9,262,500/-	425000/-
Sh S.N.Sharma	AECPS4703A	57,89,060/-	75000/-
Sh.BrijMohan Ladhha	AAIPL5191P	48,71,248/-	-

Ajay Bansal & sons	-	553907/-	-
Prabha Sharma	AXVPS5700P	-	200000/-
Gayatri associates	-	653907/-	-
Total --		4,77,62,500/-	22,00,000/-

The major part of investment in this company by Sh. Ram Swaroop Shivhare. In this regard, proposal for centralization of in this case sent to concerning CIT through JDIT (Inv.) Bhopal. The ADIT has proposed the case for centralization due the reason that Shri Ramswaroop Shivhare is one of the directors in this company and holding 45% share in the afore said company and genuineness of the loan need to be verified. The clarification is being forwarded to you for necessary action at your end.

Yours Faithfully,

  
(Anup Kumar Jain)

Dy. Director of Income Tax (Inv.)-1  
Gwalior

Copy to:

1. The Pr. Director of Income Tax, Bhopal.
2. The Joint Director of Income Tax (Inv.), Bhopal.

Dy. Director of Income Tax (Inv.)-1  
Gwalior

13. Ld. AR submitted that the above documents which have been obtained by assessee under RTI Act, reveal some alarming and vital facts for consideration of bench as under:

Page No.	Nature of document	Facts revealed
6 - 9	Letter dated 02.06.2017 sent by AO to DDIT, Gwalior	<p>At the end of this letter, the AO has reported to DDIT, Gwalior thus -</p> <p><b><i><u>"Nowhere in the report, the loan or source of investment has been stated as unaccounted. The only reason of centralisation of this case as mentioned in the report is the presumption that this case may be a group case of Shivhare Group.</u></i></b></p> <p><b><i><u>Apart from this report of ITO-I&amp;CI, Gwalior, nowhere in the Appraisal Report any adverse finding with regard to M/s Shakshi Township (P) Ltd. has been mentioned.</u></i></b></p> <p><b><i><u>In the light of above facts, no action in the case of M/s Shakshi Township (P) Ltd. is warranted. Hence, it is requested to clearly specify as to what action is required to be taken in the case of assessee company."</u></i></b></p>
10	Reply given sent by DDIT, Gwalior to AO vide letter 17.07.2017	<p>At the end of this letter, the DDIT, Gwalior replied to AO:</p> <p><b><i>"The major part of investment in this company by Sh. Ram Swaroop Shivhare. In this regard, proposal for centralisation of this case sent to concerning CIT through JDIT (Inv.), Bhopal. The ADIT has proposed the case for centralisation due to the reason that Shri Ramswaroop Shivhare is one of the directors in this company and holding 45% share in the aforesaid company and genuineness of the loan need to be verified. The clarification is being forwarded to you for necessary action at your end."</i></b></p>

1 - 4	Letter dated 18.07.2017 sent by AO to his higher authority being Addl. CIT(Central), Bhopal	<p>At the end of this letter, the AO reported thus to Addl. CIT (Central), Bhopal:</p> <p>“It is submitted that:</p> <ul style="list-style-type: none"> <li>i The name of M/s Shakshi Township (P) Ltd. is not mentioned in any warrant. Hence, no proceedings u/s 153A of the Act can be initiated.</li> <li>ii. No seized material belongs to M/s Shakshi Township (P) Ltd. hence, no proceedings u/s 153C can be initiated.</li> <li>iii. <b>No proceedings u/s 148 can be initiated as no proof of escapement of income is available. Merely for verification of certain transactions, proceedings u/s 148 cannot be initiated.</b></li> <li>iv. The DDIT(Inv.), Gwalior has not clarified as to when this loan was received by M/s Shakshi Township (P) Ltd. hence, the year receipt of loan is also not recognized.</li> </ul> <p>In the light of above facts and discussion, no action in the case of M/s Shakshi Township (P) Ltd. is warranted. This is for your kind perusal and further necessary action at your end.</p>
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14. The Ld. AR submitted that the AO has, in the letter dated 02.06.2017 sent to DDIT, Gwalior clearly reported that the only reason of centralisation of this case was the assumption that this case may be a group case of Shivhare Group; that there is no adverse finding against assessee; that no action was warranted against assessee (refer the underlined sentences). Again, in subsequent letter dated 18.07.2017 sent to his own higher authority Addl. CIT(Central), Bhopal, the AO mentioned that no proceeding u/s 148 can be initiated as no proof of escapement is available and merely for verification of certain transactions, proceedings u/s 148 cannot be

initiated. The AO finally reported that no action in the case of assessee was warranted (refer the underlined sentences).

15. Thus, Ld. AR very strongly contended, the assessee has come to know from the documents obtained RTI Act that the AO reported her firm view to the authorities that (i) there was no adverse finding against assessee, (ii) that the only reason of centralisation of assessee's case was the presumption that this case may be a group case of Shivhare Group, (iii) that no proceeding u/s 148 can be initiated as no proof of escapement was available, (iii) that no action was warranted against assessee. Ld. AR submitted that these categorical reportings made by AO herself are more than enough to demonstrate that the AO was very much against the proceeding u/s 148 to be taken in this case.

16. With these submissions, Ld. AR contended that the subsequent recording of reasons and giving notice u/s 148 dated 28.03.2018, just 3 days before expiry of time for issuance of notice, is an absolutely wrong and illegal assumption of jurisdiction u/s 147 which is not sustainable and therefore the entire assessment framed by AO must be quashed.

17. Per contra, Ld. DR for revenue relied upon order of CIT(A) for this issue and submitted that the CIT(A) has concluded this issue against assessee. Secondly, he submitted that both of the above letters dated 02.06.2017 & 18.07.2017 which are being relied by assessee for insisting that the AO was against the proceeding u/s 147/148 were by sent by "Swati

Agarwal, Dy. Commissioner of Income-tax-Central-I, Bhopal" whereas the subsequent recording of reasons at the time of issuing notice u/s 148 dated 28.03.2018 is by "Avaneesh Tiwari, Dy. Commissioner of Income-tax-Central-I, Bhopal". Ld. AR submitted that there is a change in officer from "Swati Agarwal ["S"]" to "Avaneesh Tiwari ["A"]" and every officer can have his/her own wisdom. Therefore, the argument made by Ld. AR is devoid of merit and cannot be accepted.

18. We have considered rival submissions of both sides and carefully perused the documents to which our attention has been drawn. The issue here is whether the action undertaken by AO against assessee u/s 147/148 is legal, valid or not? Admittedly, the AO initiated proceeding by recording reasons and issuing notice dated 28.03.2018 u/s 148. The copy of reasons is already re-produced in earlier para of this order. The allegation made in the reasons is *qua* the funds received by assessee from its directors and shareholders by way of share capital of Rs. 20,00,000/- and unsecured loans of Rs. 4,77,62,500/-. The assessee has invoked the provisions of RTI Act and obtained further documents from Income-tax Department which are filed at Pages 1-11 in Paper-Book-III which have been scanned and re-produced by us in earlier para. From these documents, the assessee has come to know that the AO i.e. DCIT-Central-I, Bhopal raised serious objection firstly vide letter dated 02.06.2017 to DDIT, Gwalior and secondly vide letter dated 18.07.2017 to her own higher authority Addl. CIT (Central), Bhopal against initiation of proceeding u/s 147/148 against assessee. The

letters dated 02.06.2017 & 18.07.2017 clearly show that the AO has taken into account the details of transactions of share capital of Rs. 20,00,000/- and unsecured loans of Rs. 4,77,62,500/- and after analysis of records, made a strong submission to the authorities of department that ***“no proceeding u/s 148 can be initiated as no proof of escapement of income is available. Merely for verification of certain transactions, proceedings u/s 148 cannot be initiated.”*** Furthermore, the AO also objected against centralisation of case of assessee at Bhopal. However, it is seen that at the very end of time-barring, the AO recorded reasons alleging the very same transactions of share capital and unsecured loans as unexplained and stating that he had reason to believe that income chargeable to tax referable to those very transactions had escaped assessment. Thus, there is a serious contradiction in the approach of AO which the assessee is able to get to know only from the documents obtained under RTI Act. Ld. DR for revenue has no valid explanation for this contradictory approach of AO, he is trying to find the only way out that the person who was officiating the office of AO in the letter dated 02.06.2017 was “S” and at the time of recording reasons was “A”. His contention is that every person/officer has his own wisdom. We are afraid that we can accept such a plea taken by Ld. DR for the simple reason that it is the office of AO i.e. Dy. Commissioner of Income-tax-Central-I with which the law is concerned and it is irrelevant as to whether the officer officiating was “S” or “A”. In this case, the first office was “S” whose view was in favour of assessee

that no action was warranted against assessee u/s 147/148 and the second officer was "A" who has recorded a view favourable to revenue and taken action assessee and it is in this situation that the Ld. DR is taking such an argument. But this argument of Ld. DR may be fatal in other cases for revenue itself where the situation may be just reverse. We need not illustrate such reverse situations, there can be hundred and one. Needless to mention that the stand taken by AO in letters dated 02.06.2017/18.07.2017 is more meritorious and stronger than what is mentioned in the reasons recorded because, as can be seen from those letters, the AO has given his critical observations to higher authorities that the appraisal report did not contain any adverse finding against assessee; that there is no seized material belonging to assessee; that there is no proof of escapement; that merely for verification of transactions the proceedings u/s 148 cannot be done; that the centralisation of assessee's case was on the presumption, etc. On the other hand, the reasons recorded by AO simply on the basis of information received from DDIT. There are numerous decisions in which Hon'ble Courts have quashed the proceedings of section 147/148 where such proceedings have been initiated on borrowed satisfaction or at the dictates of higher authority or the reasons recorded do not demonstrate the independent application of mind by AO or the proceedings have been initiated for mere verification of transactions. Therefore, we are in complete agreement with Ld. AR that there is a bad assumption of jurisdiction of section 147/148 in present case and hence the proceedings of section 147/148 made by AO are

not sustainable. Being so, we accept that the *first* issue of Ground raised by assessee that the action undertaken by AO u/s 147/148 was itself illegal.

**Issue No. 2:**

19. The *second* limb of the same ground taken by assessee in cross-objection is that the DCIT-Central-I, Bhopal ["AO"] had no jurisdiction u/s 127 against assessee.

20. For this issue, Ld. AR firstly submitted following chronology of assessment-proceedings with reference to supporting documents:

- (i) A notice dated 28.03.2018 u/s 148 was issued by DCIT-Central-I, Bhopal addressed to "M/s Shakshi Township Pvt. Ltd., S-36, Sanjay Complex, Jayendraganj, Gwalior – 474001", copy at Page 18 of Paper-Book-I as under:



भारत सरकार

Government of India

वित्त मंत्रालय (राजस्व विभाग)

Ministry of Finance (Department of Revenue)

कार्यालय उपायुक्त आयकर (केन्द्रीय)-I, भोपाल

OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX-CENTRAL -I, BHOPAL

कक्ष क.-301, अरेरा हिल्स, आयकर भवन, होशंगाबाद रोड, भोपाल - 462011

Room No. - 301, Arera Hills, Aayakar Bhawan, Hoshangabad Road, Bhopal - 462011

4276

NOTICE UNDER SECTION 148 OF THE INCOME-TAX ACT, 1961

PAN:- AAQCS1892P

Dated: - 28.03.2018

To,

M/s Shakshi Township Pvt. Ltd.  
S-36, Sanjay Complex, Jayendraganj,  
Gwalior - 474001

Whereas I have reason to believe that your income in respect of which you are assessable/chargeable to tax for the assessment year 2011-12 has escaped assessment within the meaning of section 147 of Income Tax Act, 1961.

I, therefore, propose to assess/reassess the income/re-compute loss/depreciation allowances for the said assessment year and I hereby require to deliver to me within 20 days from the date of service of this notice, a return in the prescribed form of your income in respect of which you are assessable for the said assessment year.

Yours faithfully,

(Avanesh Tiwari)

Dy. Commissioner of Income Tax-(Central)-I  
Bhopal

- (ii) The assessee immediately filed a letter dated 08.05.2018, copy at Page 21 of Paper-Book-I as under:

RECEIVED SYSTEM

INDIA POST

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08.05.2018

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Post

FD124333115IN TVR:64701243331 India Post  
SF GWALIOR RESIDENCY B.O (474005)  
Counter No:2.96/05/2018.14:23  
TO: DY. COMM OF IN. AYKAR BHAWAN  
P. No:462001, Bhopal C.P.O.  
From: RAMDJI JEEVA, SHAKSHI APPMENT  
W-1139MS  
Amt:36.30 (Cash) FR:5.90 Tax:6.30

To

Dy. Commissioner of Income Tax , Central-I  
Room No. 301, Arera Hills, Aaykar Bhawan  
Hoshangabad Road, Bhopal

**Subject: Reply of notice U/148 of the Income Tax Act 1961. Dated 28.03.2018 received on 05.04.2018 regarding M/s Shakshi Township Private Limited having PAN AAQCS1892P for A.Y. 2011-12**

**Respected Sir**


This is with reference to the aforementioned notice in the case of M/s Shakshi Township Private Limited, we submit as follows

We already have filed Income Tax Return for the A.Y. 2011-12 having E-filing Acknowledgement Number 551747041190113 dated 19.01.2013, copy of ITR for the A.Y. 2011-12 is enclosed herewith for kind consideration.

We further request you that we cover under jurisdiction of Gwalior.

Thanking You

For M/s Shakshi Township Pvt. Ltd



(Authorized Signatory)

Thus, the assessee categorically replied that it had already filed ITR of AY 2011-12 on 19.01.2013. The assessee submitted acknowledgement of ITR also. **Further, the assessee clearly mentioned that it was covered under jurisdiction of Gwalior.**

- (iii) Vide letter dated 30.11.2018, the AO supplied to assessee the reasons recorded for issuance of notice u/s 148, copy of AO's letter is available at Pages 23-24 of Paper-Book-I. Immediately thereafter, vide letter dated 06.12.2018, the assessee filed objection to the AO, copy at Pages 29-30 of Paper-Book-I as under:

E11237019574 INR:67312370195  
SP GWALIOR R.B. S.O (474002)  
Counter No:1,10/12/2018,13:10  
To:BY COMMISSIONER, OF INCOMETAX  
PIN:462011, Shiksha Mandal S.O  
From:SHAKSHI TOWNSHIP,PVT LTD  
Wt:270gms  
Amt:70.80(Cash)Tax:10.80  
(Track on [www.indiapost.gov.in](http://www.indiapost.gov.in))

India Post

29

Date: 06/12/2018

To,  
The Deputy Commissioner of Income Tax  
Bhopal

**Sub: Objection regarding reopening of case.**  
**Ref: Shakshi Township Pvt Ltd A Y 2011-12 PAN AAQCS1829P your letter no**  
**F.No.DCIT.I/Central1/2018/19/2606 dated 30/11/2018 received on 06/12/2018 .**

Dear Sir,

With reference to above we are raising following objections as under.

The company has filled income tax return 19/01/2013 and disclosed all material facts in the return of income. The jurisdiction of the company under income tax Range 1(1) Gwalior.

Then after we received a letter from ITO Intelligence Bhopal vide letter no ITO(intell/B/Enq/Pur(30)FT-2009-10 2010-11 & 2012-13/ E3361 dated 01.01.2013 and we have submitted timely reply to this letter and submitted all information/ documents along with all details of unsecured loan and share capital. Copy of reply submitted enclosed herewith.

Then after we received a letter from ITO Intelligence & criminal investigation Gwalior in which we have compiled all information and notices issued to shareholder and unsecured loan provider and all shareholders and depositors confirm deposit made by them along with documentary evidences.

In the light of our discussion we are raising following objections:-

1. Our Jurisdiction should be Gwalior and we have not received any intimation till date regarding change of jurisdiction from Gwalior to central circle Bhopal. Opportunity of being heard has not been provided regarding change of jurisdiction from Gwalior to Bhopal. This is not in accordance with the provisions

30

under section 127 of Income Tax Act 1961. Therefore notice issued u/s 148 on 28.03.2018 is void -ab-Initio .

2. We have disclosed all material facts in Return of Income for the relevant A.Y. hence reassessment proceedings is unwarranted.
3. All shareholders as well as all Unsecured Loan providers has confirmed the amount of loan, we have also submitted PAN. So Reassessment proceedings in the hand of company are not correct.
4. Kindly give me the opportunity of personal hearing for raising other objections and inform us well in advance.

Please drop the reassessment proceedings and obliged

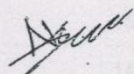
Kindly find the same in order and do the need full.

If any other information/documents required please inform us we shall comply the same

Thanking You

Yours faithfully

For Shakshi Township Pvt. Ltd

 H. S. Agarwal

(Director)

Thus, in Point No. 1 of letter, **the assessee categorically objected that its jurisdiction was Gwalior and that it has not received any intimation till date regarding change in jurisdiction from Gwalior to Central Circle, Bhopal. The assessee also mentioned that the change in jurisdiction without providing opportunity is not in accordance with section 127 and therefore the notice u/s 148 was void-ab-initio.**

- (iv) The objection of assessee was over-ruled by AO vide Point No. 1 of letter dated 12.12.2018, copy of AO's letter at Page 33 of Paper-Book-I as under:



33

भारत सरकार

Government of India

वित्त मंत्रालय (राजस्व विभाग)

Ministry of Finance (Department of Revenue)

कार्यालय सहायक आयकर आयुक्त (केन्द्रीय)-I, भोपाल

OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX-CENTRAL -I, BHOPAL

कक्ष क.-204, अरेरा हिल्स, आयकर भवन, होशंगाबाद रोड, भोपाल - 462011

Room No. - 204, Arera Hills, Aayakar Bhawan, Hoshangabad Road, Bhopal - 462011

Phone: 0755-2525344

E-mail - bhopal.dcit.cen1@incometax.gov.in

F.No. DCIT-(C)-I/BPL/Sakshi Township/2018-19/

Date: 12/12/2018

To,

The Principal Officer,  
M/s Sakshi Township Pvt. Ltd.  
PAN: AAQCS1829P

**Sub: Disposal of objection filed by your letter dated 06/12/2018 received in this office on 11/12/2018-reg.-**

Please refer to above.

The objections filed by your above mentioned letter dated 06/12/2018 have been disposed after discussion with the Ld. AR Shri Manoj Goyal. The reasons of disposal of objections are mentioned here under (point wise as raised in his above mentioned letter):

1. The jurisdiction of your case vests with the office of undersigned by virtue of transfer of PAN done by the order of Pr. Commissioner of Income Tax, Gwalior.
2. Objection raised on the fact that all material facts have been disclosed in the Return of Income (point 2 of your letter) and that confirmations of all loans and share holders has been given (point 3 of your letter) are not tenable as the above mentioned documents has not been given to this office and these are the facts of deliberation and assessment.

In light of the above, the objections raised by you are therefore disposed off.

Yours sincerely,

(Saujanya Ranjan)

Dy. Commissioner of Income Tax (Central)-I  
Bhopal

Ld. AR submitted that the AO only mentioned that the jurisdiction vested in the his office by virtue of transfer of PAN done by order of PCIT, Gwalior. However, neither the order of PCIT passed u/s 127 nor the notices issued, if any, before passing such order were supplied to assessee.

- (v) Within a week thereafter, the AO passed assessment-order on 18.12.2018.

21. Having explained thus, Ld. AR went ahead to submit that since the AO passed assessment-order without supplying the order u/s 127 and the notices, if any, issued before passing such order, despite assessee's serious objection before AO, the assessee immediately filed an application on 24.12.2018 to Central Public Information Officer of Income-tax Department, Gwalior (CPIO) under RTI Act. The CPIO passed order on 07.01.2019, copy at Pages 258-262 of Paper-Book-II as under:

कार्यालय, केन्द्रीय लोक सूचना अधिकारी एवं आयकर अधिकारी(तकनीकी),  
आयकर भवन सिटी सेंटर, ग्वालियर (मोप्रो)-474011

फा.सं. के.लो.सू.अ./ग्वा./सू. का अ./2012-13 4865 Tele. (0751) 2343550, Fax (0751) 2230911  
दिनांक 07-01-2019

आवेदक का नाम : Shri Neelesh Sharma,  
S-36, Sanjay Complex,  
Jayendra Ganj, Lashkar, Gwalior  
आवेदन की दिनांक : 24.12.2018  
आदेश की दिनांक : 07.01.2019

सूचना का अधिकार अधिनियम की धारा 7(1) के अधीन आदेश

आवेदक द्वारा सूचना का अधिकार अधिनियम, 2005 की धारा 6(1) के अंतर्गत आवेदन दिनांक 24.12.2018 को इस कार्यालय में प्रस्तुत किया गया। आवेदक द्वारा चाही गई बिंदुवार जानकारी निम्नानुसार प्रदाय की जाती है :-

S.No.	Sought Information	Provide Information
1.	Copy of letter issued to us for change of jurisdiction (if any).	Letter issued to assessee by this office on dated 01/09/2018 at two different address (Copy Enclosed)
2.	Mode of letter issued along-with proof of delivery.	By Speed Post
3.	Copy of reason recorded for change of jurisdiction.	A search was conducted at Shivhare Group on 07.01.2016. Shri Ramswaroop Shivhare is one of the directors in this company who holds 45% share in the M/s Shakshi Township (P) Ltd. Company. So the proposal for centralization in the said case u/s127 of the I T Act, 1961 related to Shivhare Group of cases was received from Pr. CIT(Central), Gwalior on 31.08.2018.
4.	Order of change of jurisdiction	Order u/s127 is enclosed with this order

यदि आवेदक इस आदेश से संतुष्ट नहीं हैं तो आदेश प्राप्ति के 30 दिवस के भीतर सूचना का अधिकार, अधिनियम, 2005 की धारा 19(1) के अंतर्गत प्रधान आयकर आयुक्त (प्रथम अपीलीय अधिकारी), आयकर भवन, सिटी सेंटर, ग्वालियर के समक्ष अपील कर सकता है।

भवदीय,

(विपिन वर्गीस इशो)  
आयकर अधिकारी (तकनीकी)/के.लो.सू.अ.  
कार्यालय, आयकर आयुक्त, ग्वालियर

प्रतिलिपि: Shri Neelesh Sharma, S-36, Sanjay Complex, Jayendra Ganj, Lashkar, Gwalior

आयकर अधिकारी तकनीकी/के.लो.सू.अ.  
कार्यालय, आयकर आयुक्त, ग्वालियर

(259)



GOVERNMENT OF INDIA,  
MINISTRY OF FINANCE  
(DEPTT. OF REVENUE)  
OFFICE OF THE PR. COMMISSIONER OF INCOMETAX,  
AAYAKAR BHAWAN, CITY CENTER, GWALIOR-474011

**ORDER U/S. 127 OF THE INCOMETAX ACT, 1961**

**Dated:15.09.2016**

In exercise of powers conferred on me under sub-section (2) of section 127 of the Income Tax Act, 1961 and all other powers enabling me in this behalf I, the Principal Commissioner of Income Tax, Gwalior hereby transfer the following cases, the particulars of which are mentioned in Column (2) below from the Assessing Officer mentioned in Col.(4) to the Assessing Officer mentioned in Column (5):-

**SCHEDULE**

S.No.	Name and address of the assessee.	PAN	From	To
1	2	3	4	5
1.	M/s Shakshi Township(P) Ltd.	AAQCS1892P	Income Tax Officer, Ward-1(1), Gwalior	DCIT (Central)-I, Bhopal

The wealth-tax cases, Gift-tax cases, FBT cases, if any, of the above-mentioned assessee may also be transferred simultaneously.

This order shall take effect from 15-09-2016.

*(SAROT DESWAL) 15/9/16*

Pr. Commissioner of Income Tax,  
Gwalior

Gwalior/Dated: 15-09-2016

F. No. Pr. CIT/Gwl/Tech./127/2016-17/


Copy to:-

1. The Pr. Chief Commissioner of Income Tax, Bhopal.
2. The Pr. Commissioner of Income Tax- Central, Aaykar Bhawan, Hoshangabad Road, Bhopal.
3. The Joint Commissioner of Income Tax, Range-1, Gwalior for information.
4. The Joint Commissioner of Income Tax- Central, Aaykar Bhawan, Hoshangabad Road, Bhopal.
5. The Income Tax Officer, Ward-1(1), Gwalior with a request to hand over the case records to the assessing Officer as above on top priority.
6. The Deputy Commissioner of Income Tax, Central-1, Bhopal
7. The Assessee (through Assessing Officer concerned.)
8. The Notice Board.

(Saurabh Shrivastava)  
Income Tax Officer(Tech.),  
For Pr. Commissioner of Income tax, Gwalior.

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(260)

  
OFFICE OF THE  
**PR. COMMISSIONER OF INCOME TAX**  
Aayakar Bhawan City Centre, Gwalior (M P)

F.No.Pr.CIT/GWL/Tech/127/Shivhare Group/2016-17/ 2508 Gwalior, Dated 01/09/2016

To,  
M/s Shakshi Township (P) Ltd  
Jayendra Ganj, Gwalior  
PAN:AAQCS1892P  
Sir/Madam,

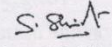
**Sub:-Transfer/Centralization of your Case u/s 127 of the I.T. Act, 1961 to the DCIT(Central)-I, Bhopal-reg. -**

Please refer to the subject cited above.

As a search and seizure operation was carried out on 07.01.2016 at your premises, a proposal for centralization of your case to the DCIT(Central)-I, Bhopal has been received in this office, from the Pr. CCIT(Central), Bhopal, for coordinated investigation and assessment u/s 153A of the Income Tax Act, 1961 in your case.

Therefore, I have been directed to allow you an opportunity to be heard before transferring your case to DCIT(Central)-I, Bhopal as per section 127 of the Income tax act, 1961. If you have any objection in this regard, you may submit the same in this office till 08.09.2016


In case no reply is received in this office from your side, it would be treated that you have no objection in transferring your case to DCIT(Central)-I, Bhopal.

Yours faithfully,  
  
(Saurabh Shrivastava)  
Income tax Officer (Tech.),  
For Pr. Commissioner of Income tax,  
Gwalior.

o/c

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(261)

  
OFFICE OF THE  
**PR. COMMISSIONER OF INCOME TAX**  
Aayakar Bhawan City Centre, Gwalior (M P)

F. No.Pr.CIT/GWL/Tech/127/Shivhare Group/2016-17/ 2508 Gwalior, Dated 01/09/2016

To,  
M/s Shakshi Township (P) Ltd  
C-63, Govindpuri, Gwalior  
PAN:AAQCS1892P  
Sir/Madam,

**Sub:-Transfer/Centralization of your Case u/s 127 of the I.T. Act, 1961 to the  
DCIT(Central)-I, Bhopal-reg. -**

Please refer to the subject cited above.

As a search and seizure operation was carried out on 07.01.2016 at your premises, a proposal for centralization of your case to the DCIT(Central)-I, Bhopal has been received in this office, from the Pr. CCIT(Central), Bhopal, for coordinated investigation and assessment u/s 153A of the Income Tax Act, 1961 in your case.

Therefore, I have been directed to allow you an opportunity to be heard before transferring your case to DCIT(Central)-I, Bhopal as per section 127 of the Income tax act, 1961. If you have any objection in this regard, you may submit the same in this office  
08.09.2016.

In case no reply is received in this office from your side, it would be treated that you have no objection in transferring your case to DCIT(Central)-I, Bhopal.

Yours faithfully,  
*S. Shrivastava*  
(Saurabh Shrivastava)  
Income tax Officer (Tech.),  
For Pr. Commissioner of Income tax,  
Gwalior.

o/c

Scanned by CamScanner



Government of India  
Ministry of Finance (Department of Revenue)  
Office of the Pr. Commissioner of Income Tax (Central)  
Aayakar Bhawan, Hoshangabad Road, Bhopal-462011

Tel: 0755 2554685  
(D) & FAX: 0755 2573798

(262)

F.No. Pr.CIT(Central)/BPL/ Tech-Cent /2016-17/1992

Dated: 26.08.2016

To,  
The Pr. Commissioner of Income Tax  
Gwalior.

31 AUG 2016  
1031

Attn: Income Tax Officer (Tech)

Sir,  
Sub: Proposal for centralization of cases u/s 127 of the Income Tax Act, 1961 in respect of cases related to Shivhare Group of cases DOS 07.01.2016 - Reg.

Kindly refer to the above subject.

Search and seizure operations were carried out on 07.01.2016 in the above group cases. The Pr.DIT(Inv.) has forwarded a proposal duly approved by the Hon'ble DGIT(Inv.), Bhopal for centralization of 01 more case pertaining to this group. A copy of the letter along with its enclosures is enclosed.

The proposal contains the following case which lies in your jurisdiction. The case is therefore required to be centralized with the DCIT(Central)-1, Bhopal for coordinated investigation and assessment, u/s 153A of the Income Tax Act, 1961.

No.	Name & Address of assessee	PAN No.	Current A.O	Remarks
1.	M/s Shakshi Township(P) Ltd.	AAQCS1892P	ITO-1(1) Gwalior	Shri Ramswaroop Shivhare is one of the director in this company and holding 45% share in the company

I am, therefore, directed to request you that the above mentioned case may kindly be transferred/centralized u/s 127 of the Income Tax Act, 1961 at the earliest.

Encl: as above

Yours faithfully,

( Rekha R. Kartha )  
Income Tax Officer (Hqrs)  
For Pr. Commissioner of Income Tax (Central)  
Bhopal

Copy to:

- The Hon'ble DGIT(Inv.), Bhopal for kind information.
- The Addl. CIT(Central), Bhopal for information and necessary action.

Handwritten notes and signatures in the left margin, including 'SSR' and 'ITOL'.

Income Tax Officer (Hqrs)  
For Pr. Commissioner of Income Tax (Central)  
Bhopal

22. Ld. AR submitted that from the above documents obtained under RTI Act, the assessee came to know about two notices claimed to have been issued by the office of PCIT, Gwalior to assessee for transfer/centralisation of case u/s 127 to AO i.e. DCIT-Central-I, Bhopal. The *first* notice is F.No. Pr.CIT/GWL/Tech/127/Shivhare Group/2016-17/2508 dated 01.09.2016 which is claimed to have been issued to '**M/s Shakshi Township (P) Ltd., Jayendra Ganj, Gwalior**'. The second notice F.No. Pr.CIT/GWL/Tech/127/Shivhare Group/2016-17/2509 which also bears the same date of 01.09.2016 is being claimed to have been issued to '**M/s Shakshi Township (P) Ltd., C-63, Govindpuri, Gwalior**'. Ld. AR very strongly opposed these two notices. He submitted that the first notice contains the address '**Jayendra Ganj, Gwalior**' which is an incomplete address and the second notice contains the address '**C-63, Govindpuri, Gwalior**' which is not of assessee at all. Therefore, according to him, none of these two notices was served upon assessee.

23. Ld. AR continuing his submission narrated that the assessee's address had always been "**S-36, Sanjay Complex, Jayendra Ganj, Lashkar, Gwalior (MP) - 474001**" and this address has been consistently mentioned (i) by assessee in the original return filed u/s 139 to ITO, Ward-1(1), Gwalior on 19.01.2013 vide acknowledgement No. 551747041190113 copy placed at Page 3 of Paper-Book-I, (ii) by the AO himself in the notice u/s 148 issued to assessee on 28.03.2018, copy re-produced in earlier para and (iii) by the AO himself in assessment-order dated 18.12.2018. Furthermore, this very

address has also been mentioned in the order of first-appeal passed by CIT(A) and also the assessee/Respondent's information given in Form No 36 of appeal filed by revenue/appellant.

24. Since it was a serious objection advanced by Ld. AR of assessee, the bench asked the Ld. DR for revenue to make explanation *qua* the service of notices upon assessee and also clarify as to how the address '**C-63, Govindpuri, Gwalior**' as mentioned in second notice came to the knowledge of department. The hearing was then adjourned vide order-sheet dated 11.02.2025 as under:

*"Both sides have made their arguments at length and we have heard them. Ld. DR for revenue wants to enquire from AO as to how the opportunity for transfer of jurisdiction u/s 127 was given to assessee. Therefore, Ld. DR seeks time to make submission for this limited purpose. Accordingly, the case is marked as Part-heard and adj. to 24.02.2025."*

25. On 24.02.2025, the hearing was again adjourned and ultimately, the Ld. DR filed following report dated 13.03.2025 issued by the office of ITO (Tech) on behalf of PCIT, Gwalior:



भारत सरकार / Govt. of India

आयकर विभाग / Income Tax Department

कार्यालय प्रधान आयकर आयुक्त, आयकर भवन, सिटी सेंटर, ग्वालियर

Office of the Pr. Commissioner of Income Tax, Aayakar Bhawan, City Centre, Gwalior

F.No. Pr.CIT/GWL/Tech./ITAT /2024-25/

Dated : 13-03-2025

To,

The Income Tax Officer,  
O/o Commissioner of Income Tax (DR),  
Income Tax Appellate Tribunal,  
C.G.O. Building, 2<sup>nd</sup> Floor, A- Wing,  
White- Church Road, Indore-452001.

Sir,

Subject:- Appellate Proceedings in the case of M/s Sakshi Township Pvt. Ltd., Gwalior  
ITO No. 94/Ind/2021, for the A.Y. 2011-12, PAN- AAQCS1829P -regarding-

Kindly refer to your letter F.No. CIT(DR) /ITAT/IND/2024-25/374 DATED 07.03.2025  
on the above cited subject.

02. Vide the above reference letter, following information was requested to provide:-

- 1- Report of service of letter issued to the M/s Shakshi Township (P) Ltd., Jayendra Ganj, Gwalior vide F.No. Pr. CIT/Gwl/Tech/127/Shivhare Group/2016-17/2508 dated 01/09/2026.
- 2- Clarify the second address i.e. M/s Sakshi Township Pvt. Ltd., C-63, Govindpuri, Gwalior, how the address came to knowledge of the department.

In this context, it is submitted that the above order u/s 127 of the Act was passed by the PCIT, Gwalior vide F.No. Pr.CIT/GWL/Tech./127/2016-17 dated 15.09.2016. Since the file of proceedings for centerlization of the instant case is related to F.Y. 2016-17 which is very old and the records of the O/o the ITO (Tech.), Gwalior were shifted to the other section/common area, therefore the same is not instant available. However, efforts are being made to findout the related file. As soon as the file is tracedout the reply to requisite query will be provided to your office.

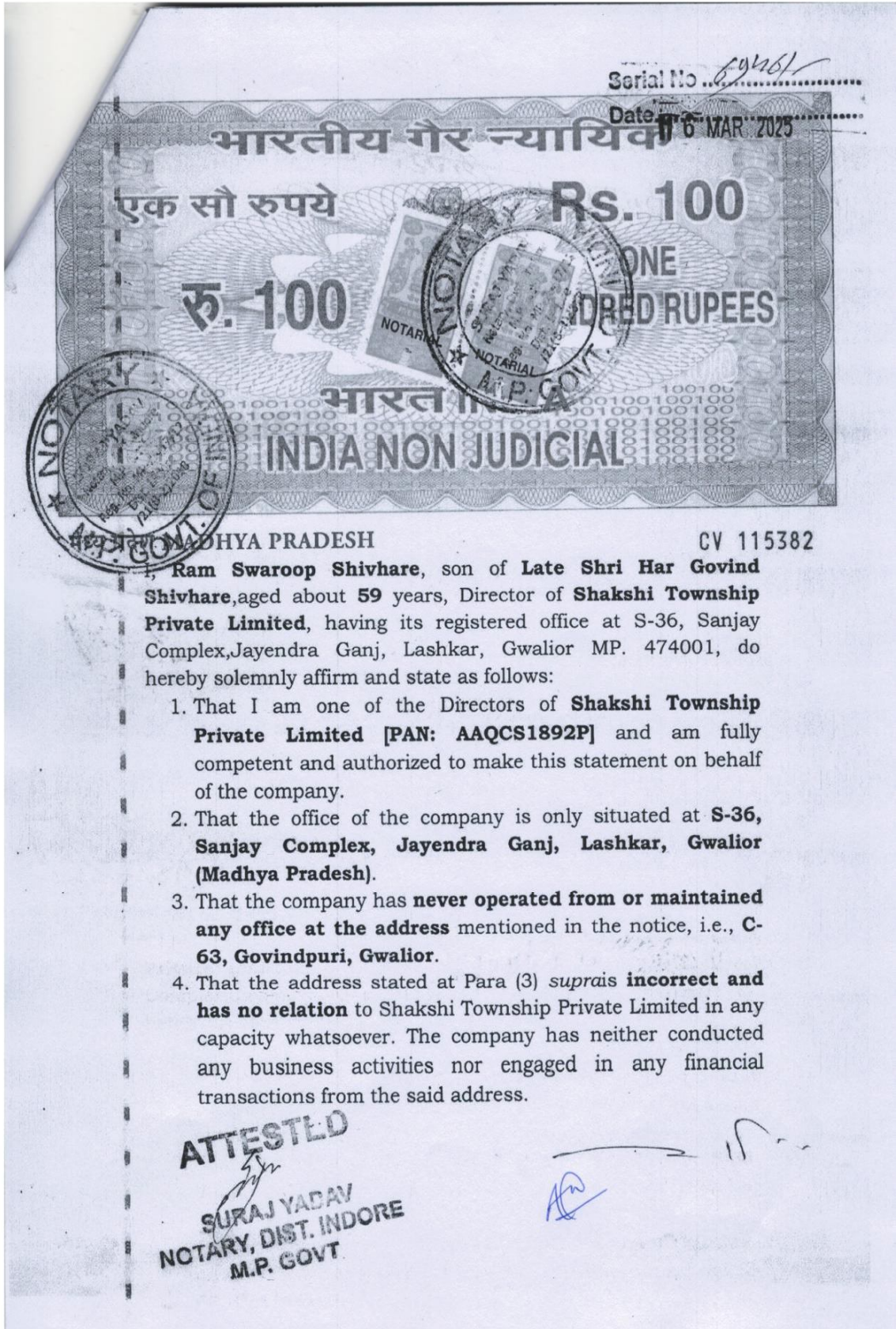
Yours faithfully,

(Rajesh Kumar Meena)

Income Tax Officer (Tech.)

For Pr. Commissioner of Income Tax, Gwalior

26. In the above report, the revenue is unable to file any record or clarification required for. Therefore, the bench directed the Ld. AR to file assessee's affidavit explaining assessee's connection with '**C-63, Govindpuri, Gwalior**' mentioned in the second notice. In response, the following affidavit is filed from assessee's side:





मध्य प्रदेश MADHYA PRADESH

CV 115383

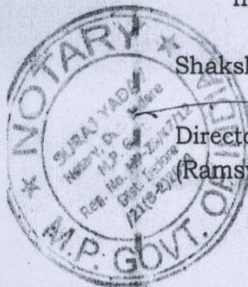
5. That the company has never had any office at the mentioned address.

6. That this Affidavit is given in compliance to the directions issued by the Hon'ble Income-Tax Appellate Tribunal, Indore Bench to clarify that the address cited is **incorrect and does not belong to the company.**

7. That I affirm the statements made in this affidavit to be **true and correct** to the best of my knowledge and belief and that nothing has been concealed therein.

Shakshi Township Private Limited

Director  
(RamswaroopShivhare)



ATTESTED  
SURAJ YADAV  
NOTARY, DIST. INDORE  
M.P. GOVT

27. In para 2 of the affidavit, it is clearly averred that the assessee-company is only situated at **"S-36, Sanjay Complex, Jayendra Ganj, Lashkar, Gwalior (Madhya Pradesh)"**. Thereafter, in Paras 3 / 5, it is averred that the assessee-company never operated from or maintained any office at **"C-63, Govindpuri, Gwalior"**. Further, in Paras 4 / 6, it is also averred that the **"C-63, Govindpuri, Gwalior"** is in an incorrect address and has no relation with assessee.

28. Thus, Ld. AR very strongly pleaded the claim of assessee that the two notices were never served upon assessee before passing order u/s 127.

29. Ld. AR then relied upon following paras of his Written-Synopsis wherein he has quoted certain judicial rulings holding that the service of notice for transfer of jurisdiction u/s 127 is a mandatory requirement and non-service would lead to quashing of proceeding:

*"10.1 It is a fundamental principle of law that the transfer of jurisdiction can be validly effected only if the affected person is put to a proper, regular and adequate notice in this regard. In the subject case, no notice was ever served on the Assessee. The apex Court had considered the issue of transfer of jurisdiction without notice to the Assessee at least on two occasions, On both occasions it had struck down the transfer order passed without putting the Assessee to notice.*

*10.2 In the first case the Court in **Pannalal Binjraj vs. Union of India (1957) 31 ITR 565 (SC)** at page 589 observed as under:-*

*"We may, however, before we leave this topic, observe that it would be prudent if the principles of natural justice are followed, where circumstances permit, before any order of transfer under section 5(7A) of the Act is made by the Commissioner of Income-tax or the Central Board of Revenue, as the case may be, and notice is given to the party affected and he is afforded a reasonable opportunity of representing his views on the question and the reasons of the order are reduced however briefly to writing. It is significant that when any question*

*arises under section 64 as to the place of assessment and is determined by the Commissioner or Commissioners or by the Central Board of Revenue, as the case may be, the assessee is given an opportunity under section 64(3) of representing his views before any such question is determined. if an opportunity is given to the assessee in such case, it is all the more surprising to find that, when an order of transfer under section 5(7A) is made transferring the case of the assessee from one Income-tax Officer to another irrespective of the area or locality where he resides or carries on business, he should not be given such an opportunity, There is no presumption against the bonafides or the honesty of an assessee and normally the Income-tax authorities would not be justified in refusing to an assessee a reasonable opportunity of representing his views when any order to the prejudice of the normal procedure laid down in section 64(1) and (2) of the Act is sought to be made against him, be it a transfer from one Income-tax Officer to another within the State or from an income-tax Officer within the State to an Income-tax Officer without it, except of course where the very object of the transfer would be frustrated if notice was given to the party affected. If the reasons for making the order are reduced however briefly to writing, it will also help the assessee in appreciating the circumstances which make it necessary or desirable for the Commissioner of Income-tax or the Central Board of Revenue, as the case may be, to transfer his case under section 5(7A) of the Act and it will also help the court in determining the bona fides of the order as passed it and when the same is challenged in court as mala tide or discriminatory. It is to be hoped that the Income-tax authorities will observed the above procedure wherever feasible."*

10.3 In the second case the apex Court, in **Ajantha industries vs. Central Board of Direct Taxes (1976) 102 ITR 281**, ruled as under-

*"The requirement of recording reasons under section 127(1) of the Income-tax Act. 1961, for the transfer of a case from one Income-tax Officer to another, is a mandatory direction under the law and non-communication thereof to the assessee is not saved by showing that the reasons exist in the file although not communicated to the assessee Recording of reasons and disclosure thereof are not a mere idle formality. When law requires reasons to be recorded in a particular order affecting prejudicially the interests of any person, who can challenge the order in court, it ceases to be a mere administrative order and the vice of violation of the principles of natural justice on account of omission to communicate the reasons is not expiated.*

*Non-communication of the reasons in the order passed under section 127(1) was a serious infirmity and the order was invalid."*

(Head Notes)

10.4 Earlier to the second judgment of the apex Court, the Madhya Pradesh High Court, which is the jurisdictional High Court in this case, had an occasion

to consider the issue of transfer of a case of an Assessee without the service of the mandatory show cause notice. That was in the case of **Sagarmal Spinning and Weaving Mills Ltd. vs. CBDT (1972) 83 ITR 130 (MP)** where the Court quashing that transfer order observed as under:-

*"For ordering the transfer of a case under section 127 of the income-tax Act, 1961, two things are absolutely necessary, namely, a reasonable opportunity of being heard in the matter wherever it is possible to do so, and, secondly, the recording of reasons for transferring the case. In the absence of these two requirements, it is not possible to support an order of transfer .....*

*The question whether the opportunity given is reasonable or not will be a matter for interpretation by the court and not by the authority itself. Similarly, the other aspect relating to the recording of reasons would clearly indicate that it has to be an order in the sense of a quasi-judicial nature and it cannot be an arbitrary order where no reasons need be disclosed. If there be no compliance with the two requirements mentioned by the section, the order will be justiciable.*

*Facility of investigation would not be a sufficient reason for transfer of a case; and the mention of that reason in the show-cause notice proposing a transfer of the case would not be in compliance with the requirements of section 127. Nor would the giving of some reason in a return filed before the High Court in writ proceeding be in compliance with the section.*

*The impugned order of transfer in the instant case, which did not give the reason for the transfer of the case in the order, was in contravention of the mandatory provision of section 127(1) of the Act and had to be quashed."*

(Head Notes)

10.5 That once again on the issue of transfer of jurisdiction in a case without the service of the mandatory transfer notice to the Assessee, the Jurisdictional High Court in **Shivaji Rao Angre vs. CIT (1986) 158 ITR 162 (MP)**, after taking note of the two Supreme Court decisions cited hereabove and also earlier decisions of the Court in *Sagarmal Spinning and Weaving Mills Ltd. vs. CBDT supra*, quashed the transfer order as being invalid and inoperative.

10.6 In the subject case, as submitted above, the show cause notice for transfer of the case from Gwalior to Bhopal was never served on the Appellant. That being the undisputed fact and the transfer of jurisdiction in the case having been carried out without following the mandatory procedure prescribed in this behalf by the statute the transfer of the case of the Appellant to Bhopal from Gwalior is *ab initio* illegal and invalid. Also any further action taken against the Appellant at Bhopal is against law and the defined procedure and would therefore be of no consequence. In this background the impugned order passed by the Bhopal Authorities merits to be quashed in limine."

30. With above submissions, Ld. AR prayed that the AO had no valid jurisdiction against assessee and therefore the entire proceeding done by AO must be quashed.

31. Per contra, Ld. DR placed reliance on the order passed by PCIT for transfer of jurisdiction u/s 127 to the AO and the assessment-proceedings thereafter conducted by AO.

32. We have considered rival submissions of both sides and carefully perused the documents to which our attention has been drawn in the light of applicable provisions of law and judicial rulings cited before us. We have already noted the detailed facts/documents explained by Ld. AR at length in preceding paras and do not wish to repeat the same to avoid repetition. After a careful consideration, we find that the revenue is claiming to have issued two notices, one bearing F.No. Pr.CIT/GWL/Tech/127/Shivhare Group/2016-17/2508 and other bearing F.No. Pr.CIT/GWL/Tech/127/Shivhare Group/2016-17/2509. Both of these notices bear the same date of 01.09.2016, the only difference is that the first is addressed to '**M/s Shakshi Township (P) Ltd., Jayendra Ganj, Gwalior**'. and second is addressed to '**M/s Shakshi Township (P) Ltd., C-63, Govindpuri, Gwalior**'. At first, we do not understand the necessity of issuing two notices on the very same date to assessee. Be that as it may, the first notice is simply mentioning '**Jayendra Ganj, Gwalior**' which is an incomplete address. The second notice is containing '**C-63, Govindpuri, Gwalior**' which the assessee

is denying; the assessee has averred in the affidavit that this address is incorrect and does not have any relation with assessee. We have given an opportunity to the revenue authorities to provide service record of these notices and also clarify as to how the address '**C-63, Govindpuri, Gwalior**' came to their knowledge but the revenue authorities are not able to provide any reply in this regard. It is also a fact that the assessee has given its address "**S-36, Sanjay Complex, Jayendra Ganj, Lashkar, Gwalior (Madhya Pradesh)**" in the return of income originally filed for the AY 2011-12 under consideration on 19.01.2013 and this very address is used by department in all the notice u/s 148, assessment-order, first-appellate proceeding and even in the Form No. 36 filed to tribunal. Thus, the address "**S-36, Sanjay Complex, Jayendra Ganj, Lashkar, Gwalior (Madhya Pradesh)**" is the correct address of assessee and it is the only address known to department but none of the two notices u/s 127 has been served on this address. Thus, it is a case where the jurisdiction has been changed from Gwalior to Bhopal u/s 127 without complying the condition prescribed in section 127(1) which provides that the transfer in jurisdiction shall be made only after giving the assessee an opportunity of being heard in the matter. We find that the judicial decisions of Hon'ble Apex Court and Hon'ble Jurisdictional High Court quoted by Ld. AR in his Written-Synopsis, as mentioned in earlier para of this order, clearly hold that the order u/s 127 made out by authorities, without serving notice upon assessee, would be invalid and inoperative. Therefore, in the light of decisions, the order

passed by PCIT, Gwalior u/s 127 dated 15.09.2016 transferring jurisdiction of assessee from ITO, Ward-1(1), Gwalior to AO [DCIT, Central-I, Bhopal] is bad and consequently the entire assessment-proceeding done by AO, are also invalid and cannot be sustained. Being so, we accept that the second issue of Ground raised by assessee that the DCIT-Central-I, Bhopal ["AO"] had no jurisdiction u/s 127 against assessee.

33. In view of above discussions, we arrive at a conclusion that the (i) the action undertaken by AO u/s 147/148 was illegal and (ii) the AO had no jurisdiction u/s 127 against assessee. Accordingly, the Ground raised by assessee in cross-objection is accepted and the assessment framed by AO is quashed. The assessee succeeds in its cross-objection.

34. Before parting, we may mention that during deliberations, there were certain other pleadings by both sides with regard to the non-issuance/service of notice u/s 148 within prescribed time and wrong transfer of jurisdiction from Gwalior to Bhopal on non-existent reason of directorship of Shri Ram Swaroop Shivhare (in whose case a search was conducted) in assessee-company. But those pleadings are not required to be adjudicated in view of the fact that we have already quashed the assessment-order on other substantial objections of assessee.

**Revenue's appeal:**

35. The revenue has raised following ground:

*"1. On the fact and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 4,97,62,500/- made by the AO on account of unexplained cash credits u/s 68 of the Income Tax Act, 1961."*

36. Since we have already quashed the assessment-order in assessee's cross-objection, the revenue's appeal becomes academic and infructuous, the same is dismissed therefore.

**37. Resultantly, revenue's appeal is dismissed and assessee's cross-objection is allowed.**

Order pronounced in open court / by putting on notice board  
as per Rule 34 of ITAT Rules, 1963 on 23/06/2025

Sd/-  
(DINESH M. SINHA)  
JUDICIAL MEMBER

Sd/-  
(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक/ Dated : 23/06/2025

Patel/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore