

IN THE INCOME TAX APPELLATE TRIBUNAL BENCH, RANCHI
VIRTUAL HEARING AT KOLKATA

Before Shri Sonjoy Sarma, Judicial Member
and Shri Ratnesh Nandan Sahay, Accountant Member

I.T.A. No.20/Ran/2024
Assessment Year: 2014-15

Ability Services Pvt. Ltd.....Appellant
232 Kumhar Para, New Baradwari Sakchi,
Jharkhand-831001.
[PAN: AACCE1395H]

vs.

ACIT, Circle-1, Jamshedpur.....Respondent

Appearances by:

Shri Devesh Poddar, AR, appeared on behalf of the appellant.

Shri Khubchand T. Pandya, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : July 02, 2025

Date of pronouncing the order : July 09, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against an order dated 18.12.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. Brief facts of the case are that the assessee is engaged in the business of contract and transportation and filed its return of income for the assessment year 2014-15 by declaring total income of Rs.81,52,900/-. The case of the assessee was selected for scrutiny and assessment was framed on a total assessed income of Rs.84,49,220/-. Subsequently, proceedings u/s 148 were initiated vide notice dated 30.03.2021 and assessment was completed on 20.03.2022 wherein the Assessing Officer made addition of excess depreciation of Rs.36,64,657/- and payment of EPF/ESI beyond the due date but prior to filing of return of Rs.5,31,940/-

4. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the reassessment order, where the ld. CIT(A) dismissed the appeal of the assessee and upheld the reassessment order passed by the Assessing Officer.

5. Aggrieved by the said order, the assessee filed the present appeal before this Tribunal raising various grounds. However, the assessee primary contention is that the reassessment proceedings u/s 147 was beyond 4 years from end of the relevant assessment year, therefore, it is invalid order in law as there was no failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment. He stated that assessment order u/s 143(3) had already completed on 27.12.2016 after verification of document filed by the assessee, therefore, there was no occasion to make further reassessment u/s 148 of the Act. The ld. AR also stated that as per proviso to section 147 where assessment has been completed u/s 143(3), no action can be taken u/s 147 after four years unless there was any failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment. The ld. AR in order to substantiate his contention relied on the reasons recorded by the Assessing Officer, which is as under:



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
DCIT/ACIT CIRCLE 1 JSR

To,
ABILITY SERVICES PRIVATE LIMITED
232 KUMHAR PARA ,NEW BARADWARI SAKCHI
JAMSHEDPUR 831001 ,Jharkhand
India

PAN: AACCE1395H	Assessment Year: 2014-15	DIN & Notice No : ITBA/AST/F/143(2)_4/2021- 22/1033138773(1)	Dated: 28/05/2021
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Notice under section 143(2) read with section 147 of the Income-tax Act, 1961('Act)

Dear Taxpayer,

Thank you for filing your return of income for Assessment Year 2014-15 in response to notice under section 148 of the Act, vide Ack. no. 352428051130521 on 13/05/2021.

2. While acknowledging the care and diligence you have taken in preparing the return, there are certain issues as mentioned below which need further clarification:-

Issues as per reasons recorded for reopening

In this case an assessment order u/s 143(3) of I T Act 1961 was passed on 27.12.2016 at assessed income of Rs.84,49,220/-.

On perusal of Audited Profit and loss account it revealed that the assessee company had depreciation on Trucks @40%, a sum of Rs.1,46,62,626/- instead of Rs.1,09,96,969/- admissible @30%. Thus the assessee had claimed excess depreciation of Rs.36,64,657/-.

On perusal of Profit and loss account & Form 3CD of the assessee Company, it revealed that Provident Fund (PF) of Employees Contribution amounting to Rs.4,70,656/- and Employees State Insurance (ESI) amounting to Rs. 61,284/- were not deposited within due date of concerned Fund. The month-wise details of late payment of PF and ESI are as under:-

PROVIDENT FUND CONTRIBUTION

Month	Contribution	Due Date	Payment Date
April 13	55449	15.05.13	28.05.13

Note: If digitally signed, the date of digital signature may be taken as date of document.
.47, C.H. AREA, JAMSHEDPUR, 47, C.H. AREA, JAMSHEDPUR, PATNA, Bihar, 831001
Email: JAMSHEDPUR.DCIT1@INCOMETAX.GOV.IN,

* DIN- Document identification No.

5.1 The ld. AR further stressed that in the present case, on going through the reasons recorded for reopening, it is seen that there was no allegation of any failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. Since no such failure has been established, the condition laid down in first proviso to section 147 of the Act is not satisfied and therefore reopening of assessment is not sustainable.

5.2 In this respect, the ld. AR relied on the judgment of Hon'ble Supreme Court as in the case of Ganga Saran & Sons (P) Ltd. vs. ITO (1981) 130 ITR 1, where it was held that mere change of opinion or vague assumption of the Assessing Officer is not a valid ground for reopening completed assessment, it must be based on failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment.

6. On the other hand, the ld. DR supported the decisions rendered by the authorities below.

7. We, after hearing of both the parties and perusing the materials available on record, find that the Assessing Officer while issuing notice u/s 147 of the Act nowhere stated that there was any failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment, therefore, the reassessment order framed by the Assessing Officer is bad in law. We rely on the judgment of Hon'ble Supreme Court as in the case of Ganga Saran & Sons (P) Ltd. vs. ITO (supra). The Assessing Officer failed to specify such fact in reason recorded and there was nothing on record at the time of issuing of notice u/s 147 of the Act thus failure on the part of assessee to disclose truly and fully all material facts necessary for the framing of original

assessment order. Therefore, we set aside the reassessment proceedings and direct the Assessing Officer to delete the addition.

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

Kolkata, the 9th July, 2025.

Sd/-
[Ratnesh Nandan Sahay]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 09.07.2025.

RS

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches