IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI

BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.1009/Del/2021
(ASSESSMENT YEAR 2002-03)

Income Tax Officer, Ward-18(3), New Delhi-110002	Vs.	M/s Nivia Agencies Pvt. Ltd. Flat No. A-231, Derawal Nagar, New Delhi-110009 **PAN-AAACN4108P**
(Appellant)		**(Respondent)**

Assessee by	Shri Praveen Kumar, AR
Department by	Shri Virender Kumar Singh, Sr. DR
Date of Hearing	07/05/2025
Date of Pronouncement	09/07/2025

O R D E R

PER MANISH AGARWAL, AM:

This appeal is filed by the Revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-37, New Delhi [CIT(A), in short] in Appeal No. CIT(A), Delhi-37/10048/2016-17 vide order dated 31.08.2020 passed u/s 250(6) of the Income Tax Act, 1961 ('the Act', in short) for Assessment Year 2002-03.

2. Brief facts of the case are that the assessee filed its return of income for the year under appeal on 31.10.2002 declaring total income of Rs.29,820/- which was processed u/s 143(1) of the Act. Thereafter, the case of the assessee was reopened in terms of notice issued u/s 148 on 28.03.2006. In response, assessee submitted that the return filed u/s 139(1) may be treated as the return filed in response to the notice u/s 148 of the Act. Accordingly, the same was considered. During the reassessment proceedings, notices were issued u/s 142(10 from time to time which were duly complied with and thereafter, the assessment was completed at total income of Rs.3,99,70,1900/- by making of

addition of Rs.4 Cr. on account of share application money and share premium received during the year.

3. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the assessee has challenged the action of the reopening of the assessment and also the additions were challenged on merits also. The ld. CIT(A) while impugned order allowed the legal grounds taken in ground No.3 & 5 and quashed the reopening of the assessment.

4. Aggrieved by the said order, the Revenue is in appeal before the Tribunal by taking the following grounds of appeal:

> *"1. Whether on the facts and circumstances of the case, the Ld. CIT(A) erred in allowing the appeal of the assessee thereby deleting the addition of Rs.4,00,00,000/- made by the AO u/s 68 of the IT Act, 1961 on account of unexplained share application money and share premium.*
>
> *2. Whether on the facts and circumstances of the case, the Ld. CIT(A) erred in ignoring the fact that the assessment was made u/s 144/147 of the IT Act, 1961 and additions made were not new additions but exactly as per reasons recorded before reopening of the assessment.*
>
> *3. Whether on the facts and circumstances of the case, the Ld. CIT(A) erred in not seeing the original records which have original reasons and what was communicated was just a gist of reasons.*
>
> *4. The appellant craves leave, to add, alter amend any ground of appeal above at the time of hearing."*

5. Before us, Ld. Sr. DR vehemently supported the order of lower authorities and submits that before ld. CIT(A), the reasons supplied by AO was the summary of the reasons recorded before the reopening of the assessment and not the complete reasons recorded. He further submits that Ld. CIT(A) has failed to verify the same from original records and, therefore, the action of Ld. CIT(A) is not correct in quashing the entire reassessment proceedings. The Ld. Sr. DR thus requested to restore the order of the AO. The Ld. Sr. DR further submits that since the Ld. CIT(A) has not decided the issues raised on merits, matter may be sent back to the file of Ld. CIT(A) for deciding the issue on merits also. Ld. Sr. DR also submits that the additions were made exactly for the amounts which

were stated in the reasons recorded, therefore, there is no disparity in the reasons recorded and the additions made and, accordingly, he requested for restoration of the assessment order.

6. On the other hand, the Ld. AR of the assessee supported the order of the Ld. CIT(A) and further relied upon the detailed written submissions filed which reads as under:

"The Hon'ble CIT(Appeals) has granted relief by adjudicating two ground of appeal which are reproduced herein under:

Ground No.3 of CIT Appeal: In the grounds of appeal no.3 the appellant has contended that AO had introduced new "Reason to believe" after the original reason to believe and such amendment or change in "reason to believe" is invalid and against the settled principles of law. (PB-28 and 33)

Ground No.5 of CIT Appeal: In the ground of appeal no.5 the appellant has contended that the AO has recorded wrong reasons and made addition of capital introduced. It was contended that actual addition to Capital was Rs.3.05 crore whereas the AO has mentioned at Rs.4 crore in the reasons recorded and supplied to us and made wring additions of Rs.4 crore in the assessment order. (PB-28 and 33)

Now against the order passed by CIT(Appeal) the department has come before this Hon'ble tribunal with the following Grounds of Appeal:

1. *Whether on the facts and circumstances of the case the Ld. CIT(Appeal) erred in allowing the appeal of the assessee thereby deleting the addition.*

2. *of Rs.40000000/- made by the AO u/s 68 of the IT Act on account of unexplained share application money and share premium.*

3. *Whether on the facts and circumstances of the case the LD.CIT(A) erred in ignoring the fact that the assessment was made u/s 144/147 of the IT Act,1961 and additions made were not new additions but exactly as per reasons recorded before reopening of the assessment.*

4. *Whether on the facts and circumstances the Ld. CIT(A) erred in not seeing the original records which has original reasons and what was communicated was just a gist of reasons.*

GROUND OF APPEAL NO.5 ADJUDICATED BY CIT(A) NOT CHALLENGED IN THIS APPEAL BEFORE HON"BLE ITAT DELHI BENCH

On bare perusal of the grounds of appeal no.2 raised in present appeal by Ld.AO before this Hon"ble ITAT Bench Delhi it is crystal clear that the Ld.AO has nowhere challenged the grounds of appeal no.5 (as abovementioned)

allowed by CIT (A)" that It was contended that actual addition to Capital was Rs.3.05 crore whereas the AO has mentioned at Rs.4 crore in the reasons recorded and supplied to us and made wrong additions of Rs.4 crore in the assessment order." whereas in Ground No.2 submitted by Ld.AO is telling to this Hon'ble court that he has made additions exactly as per the reasons recorded before reopening of assessment. But the Ld.AO is nowhere challenged the ground No.5 being adjudicated by the Hon'ble CIT(A). (PB-33 and 28) The Ld.AO is rather keeping complete mum on the mistake/ illegality noticed by the CIT(A) in the figures being taken by the assessing officer while recording the reasons. It implies that the Ld.Ao has not challenging the adjudication process of CIT(A) by pointing out any mistake in his specific findings on figures for error committed by AO rather he is supporting the adjudication in favour of assessee by CIT (A) by just informing to this Hon'ble ITAT vide its grounds of appeal that he followed, the exact figures as mentioned in the recorded reasons without any application of mind whether correct or wrong and not commenting on the error in figures recorded in the reasons as pointed by Ld. CIT(A). Hence he is fully agreed with the finding of CIT(A) about the wrong figures taken by AO while recording reasons.

GROUND OF APPEAL NO.3 of assessee appeal before CIT(A) ADJUDICATED BY CIT(A) NOT CHALLENGED IN THIS APPEAL BEFORE HON"BLE ITAT DELHI BENCH and confirming that he never supplied original reasons to assessee.

Again On bare perusal of the grounds of appeal no.3 of department appeal raised by Ld.AO before this Hon"ble ITAT Bench Delhi it is crystal clear that the Ld.AO has no where challenged the grounds of appeal no. 3 of assessee appeal before CIT(A) i.e., "In the grounds of appeal no.3 the appellant has contended that AO had introduced new "Reason to believe" after the original reason to believe and such amendment or change in "reason to believe" is invalid and against the settled principles of law. (PB-28 and 33) whereas in Ground No.3 of department appeal raised by Ld.AO before this Hon'ble ITAT is just confirming to this Hon'ble court that "Ld. CIT(A) erred in not seeing the original records which has original reasons and what was communicated was just a gist of reasons."

The Ld.AO in the abovementioned grounds No.3 of Ld.AO appeal nowhere challenging the grounds of appeal adjudicated by Id. CIT(A) supported with several legal precedents rather admitting the glaring fact of his arbitrariness that he has not communicated the original reasons and what was communicated was just a gist of reason. However, he had nowhere challenged the Ground Adjudicated by the Ld. CIT(A) that it is illegal to make amendment or change in reason to believe and is against the settled principle of law and keeping complete mum in his grounds of appeal taken before Hon'ble ITAT and nowhere taken such ground.

Hence firstly the Ld. AO while filing the appeal never challenged the grounds of appeal on which relief is granted by Ld. CIT(A) and it is the settled position of law when specific ground of appeal is not challenged on which relief by CIT(A) of

specific ground has been provided to the assessee attained finality as held by coordinated Bench of this Hon'ble ITAT and Jurisdictional Hon'ble Delhi High Court. The legal position in identical fact is further covered and strengthened by the order of coordinated Bench of Delhi ITAT in ITA. Nos.2331 to 2334/Del./2016 M/s.S.G. Portfolio Pvt. Ltd., New Delhi ..... The Ld. CIT(A) also found sanction given under section 151 of the I.T. Act to be invalid. The Ld. CIT(A) in view of these reasons held that impugned assessment order passed by the A.O. deserves to be quashed. The Revenue has not raised any ground of appeal in the present appeal to challenge these findings of the Ld. CIT(A). The Revenue merely contended in the grounds of appeal that since no return was filed in response to notice under section 148 of the I.T. Act, 1961, therefore, there is no question of issuing of notice under section 143(2) of the I.T. Act and that Ld. CIT(A) has ignored the provisions of Section 28288 of the I.T. Act, 1961. The Revenue, therefore, did not challenge the Order of the Ld. CIT(A) in quashing the initiation of re-assessment proceedings on. both counts i.e., initiation of re-assessment proceedings is without fresh tangible material and that sanction under section 151 is invalid. Therefore, once the Order of the Ld. CIT(A) on this question is not challenged by the Revenue Department, it became final and any result of Departmental appeal cannot change the fate of Departmental appeal, the appeal of Revenue would not be maintainable and is liable to be dismissed on this ground alone. This proposition of law attained finality wherein revenue's appeal against this proposition was dismissed by Delhi High Court:

HON'BLE DELHI HIGH COURT FURTHER CONFIRMED THE SAME FACT IN ITA 509/2023+ ITA 510/2023 PR. COMMISSIONER INCOME TAX CENTRE-2.... versus M/S S.G. PORTFOLIO PVT. LTD. WHEREIN IT HAS BEEN HELD:

"For the moment, even if we were to agree with the appellant/revenue that the respondent/assessee had never communicated to the AO that the original return should be treated as a return as against the notice dated 143(2) of the Act, the impugned order will still stand as the assessment order was set aside by the CIT(A) on other grounds, including the ground that the sanctioning authority has not applied its mind independently. No ground, even according to Mr Menon, was taken before the Tribunal assailing the conclusion reached by the CIT(A) in that regard."

This self admission of the Ld.AO before the Hon"ble ITAT for not supplying the original reasons u/s 148 in the appeal filed by the department itself held the all proceedings conducted under section 148 were void ab intio and this appeal of revenue is liable to be dismissed.

Without prejudice to the forgoing settled position of law on which independently CIT(A) has granted relief by allowing the appeal of the assessee when the reopening itself is invalid the department contention in ground no.1 that CIT(A) erred while deleting the addition of Rs.4 crore made u/s 68 of the IT Act on account of unexplained share application money and share premium.

It is admitted fact that enquiries were successfully conducted u/s 133(6) of the IT Act 1961 with the shareholders who subscribed to the capital through proper banking channel and all the shareholders were duly identified income tax assessee and he duly served the notices u/s 133(6) Hence the identity of such shareholders

stands admitted. There is no defect found by the Ld.AO in the documents/evidences/detail submitted by the shareholders in response to enquiry conducted u/s 133(6) of the IT Act 1961. The same fact is reaffirmed by the Ld. CIT (A) in his order from Page.6 to Page.12 wherein the result of enquiry conducted u/s 133(6) and no discrepancy noticed and the settled position of law vide the judgment of Hon'ble Supreme Court and Hon'ble Delhi High Court and Coordinated Benches of jurisdictional ITAT has been duly mentioned and for the brevity the same is not reproduced herein. The assessee want to submit before this Hon'ble ITAT the clinching fact that most of the shareholders were getting assessed with the same Ld. Assessing Officer and the same assessing officers duly accepted the investment done by these company in favour of assessee company.

1. *Northpole Agencies Pvt. Ltd*
2. *Northpole Builders Pvt. Ltd*
3. *Norton consultant Pvt. Ltd*
4. *Norm Consultant Pvt. ltd*

It is the specific finding of the AO that subscriber companies are group companies and funds are routed in between them and no funds have been brought by any un identified persons and all are corporate entities and no where challenged that those subscribers to capital were not having means to subscribe.

IT is important to note that At one hand the same assessing officer in his own jurisdiction is conducting the assessment of majority of shareholders without any adverse inference i.e., disputing their identity, creditworthiness, genuineship of their investment in assessee company then how can he suggest that share application money given by them are unexplained, he cannot blow hot and cold at same time by admitting same transaction in one assessee case but refusing to accept another leg of same transaction. Reliance is placed on the judgemnt of coordinated Bench of Delhi ITAT in the case of Moti Adhesive vs ITO ITA in the case of Moti Adhesive vs ITO.

Moreover all the others shareholders have been duly assessed by the IT department in their respecting jurisdiction without any adverse inference apart from the abovementioned 4 shareholders and the Ld. AO though entered in the shoes of the another persons but never made any enquiry with the respective AO where those shareholders were getting assessed whether they have accepted the transaction of those assessee and ignored the fact that no adverse inference has been noticed by the department in their investment made in the assessee company. Hence the issue raised by the Ld.AO that share application money was unexplained is devoid of any merit without pointing out any defect in the evidences filed by the respective shareholders and himself admitting the investment done by shareholder while making their assessment.

That in support of the grounds of appeal adjudicated by the learned CIT(A) we rely upon the order of the CIT(A) and the judgment mentioned of Hon'ble Supreme Court and Hon'ble High court and coordinated benches of Hon'ble ITAT as mentioned in the Ld. CIT(a) order and for the sake of brevity the same is not repeated herein CIT(A) held that The above facts show that new reasons/modified

reasons/detailed reasons were introduced in the case of the Appellant .It is the settled position in law that new reasons cannot be allowed to be introduced The reasons recorded by the AO cannot be supplemented by recording new/detailed reasons. The AO cannot amend or change the reasons recorded by the AO for reopening the assessment. The deficiency in the reasons recorded at the time of issuing notice u/s 148 cannot be rectified later by recording new/detailed reasons by the AO.

The Ld. CIT(A) order for adjudicating the above ground of appeal is also further covered by the judgments of jurisdictional Delhi High Court and Coordinated Benches of Hon'ble ITAT in the following cases wherein it has been held that no Improvement or modification /supplementing of reason is allowed and such order liable to be quashed.

Subhash Chander Dabas vs Assistant Commissioner Of Income Delhi High court W.P.(C) 12784/2019 11. "We had in ATS Infrastructure Limited v. Assistant Commissioner of Income Tax Circle 1 (1) & Ors.6, held that the formation opinion under Section 147 and the reasons which are taken into consideration for initiating action of reassessment cannot waiver or be one of changing hues. We deem it apposite to extract the following passages from our decision in ATS Infrastructure: "6. Our Court in Commissioner of Income Tax-II v. Living Media India Ltd. had pertinently observed that additional reasons cannot be provided or recorded by the Assessing Officer subsequent to the issuance of a notice under Section 148 of the Act. We deem it apposite to quote the following passage from that decision:- "13. With regard to the additional reasons which were recorded subsequent to the issuance of notice under section 148 of the said Act, we have already observed that this could not have been done by the Assessing Officer. The validity of the proceedings initiated upon a notice under section 148 of the said Act would have to be judged from the stand point of the reasons which existed at the point of time when the section 148 notice was issued. The additional reasons cannot be provided or recorded subsequent to the issuance of notice under section 148.
Principal Commissioner Of Income-Tax ... vs M/S Sng Developers Limited Delhi High court ITA No.92/2017 held that:

24. The reopening of assessment under Section 147 is a potent power not to be lightly exercised. It certainly cannot be invoked casually or mechanically. The heart of the provision is the formation of belief by the AO that income has escaped assessment. The reasons so recorded have to be based on some tangible material and that should be evident from reading the reasons. It cannot be supplied subsequently either during the proceedings when objections to the reopening are considered or even during the assessment proceedings that follow. This is the bare minimum mandatory requirement of the first part of Section 147 (1) of the Act." 13. In view of the sald decision, the Court has no hesitation in concluding in the present case that the reasons recorded by the AO for reopening the assessment under Section 147 of the Act do not meet the requirement of the law. The ITAT was, therefore, perfectly justified in confirming the order of the CIT (A) and holding the reopening of the assessment to be bad in law.

Indivest Pte Ltd vs. Additional Director of Income Tax on, IN THE HIGH COURT OF BOMBAY WRIT PETITION NO.315 OF 2012.
Though the attention of the Assessing Officer was drawn to the fact that the assessee is not an Fil and that the provisions of Section 115AD would not be attracted, the Assessing Officer persisted in rejecting the objections to the reopening of the assessment. In the order disposing of the objections which were raised by the assessee, the succeeding Assessing Officer has clearly attempted to improve upon the reasons which were originally communicated to the assessee. The validity of the notice reopening the assessment under Section 148 has to be determined on the basis of the reasons which are disclosed to the assessee. Those reasons constitute the foundation of the action initiated by the Assessing Officer of reopening the assessment. Those reasons cannot be supplemented or improved upon subsequently. While disposing of the objections of the assessee, the Assessing Officer has purported to state that the assessee had filed only sketchy details in its return filed in the electronic form. As we have noted earlier, the relevant provisions expressly make it clear that no document or report can be filed with the return of income in the electronic form. The assessee has an opportunity to do so during the course of the assessment proceedings if a notice is issued under Section 143(2). The Assessing Officer was, in our view, not entitled, when he disposed of the PNP 12/ 12 WP315-13.3.sxw objections to travel beyond the ambit of the reasons which were disclosed to the assessee. For all these reasons, we are of the view that the exercise of the jurisdiction under Section 147 and Section 148 in the present case is without any tangible material. The notice of reopening does not meet the requirements as elucidated in the judgment of the Supreme Court in Kelvinator of India Ltd. For these reasons, we make the rule absolute by quashing and setting aside the notice dated 16 March 2011 and the order passed by the Assessing Officer on 20 December 2011.
AO admitting that Original Reason to reopen the case never supplied
In his ground of appeal submitted before this Hon"ble Tribunal the Ld.AO is self admitting that he had never supplied the original reasons to reopen this case u/s 148 The tribunal following the judgment of Bombay High court in CIT vs Formento Resorts and Hotel Ltd ITA NO.71 of 2006 has held that though the reopening the reasons recorded for reopening of the assessment were not furnished to the assessee till date of completion of assessment, reassessment cannot be upheld moreover the SLP filed by the revenue against the decision of this court order has been dismissed by APEX Court vide order dated 16.7.2007. The same position is upheld in CIT vs Videsh Sanchar Nigam Ltd(2012)340 ITR 66 (Bom)

Mentioning of incorrect reason as adjudicated by CIT(A)

Without prejudice to the above it is settled position of law and is covered with the decisions of Hon'ble Delhi High court that mentioning of incorrect reasons held the proceedings under section 148 abinitio void.

This ground of appeal adjudicated for incorrect figures in the reasons supplied is duly covered with Jurisdictional Hon"ble Delhi ITAT judgement in the case of Kumwar Ayub Ali vs ITO in ITA No.3137/del/2018 wherein issuance of notice u/s 148 were found to be ab initio void on mention incorrect facts in in the reasons recorded.

IN THE HIGH COURT OF DELHI AT NEW DELHI ITA 29/2017 & CM No.1009/2017.

PR. COMMISSIONER OF INCOME TAX versus RMG POLYVINYL (I) LTD.

However, in neither of the above cases are the facts similar to those in the present case. The two glaring errors in the reasons in the present case are, in fact, unusual. What the AO might have done if he was aware, even at the stage of consideration of reopening of the assessment that a return had in fact been filed by the Assessee and that the extent of the accommodation entries was to the tune of Rs.78 lakh and not Rs.1.56 crore would be a matter of pure speculation at this stage. He may or may not have come to the same conclusion. But that is not the point. The question is of application of mind by the AO to the material available with him before deciding to reopen the assessment under Section 147 of the Act.

In this context the following observations of this Court in CIT v. Suren International (2013) 357 ITR 24 (Del)are relevant:

> *"....In the first instance, we do not find the reasons as recorded by the Assessing Officer to be reasons in law, at all. A bare perusal of the table of alleged accommodation entries included in the reasons as recorded, discloses that the same entries have been repeated six times. This is clearly indicative of the callous manner in which the reasons for initiating reassessment proceedings are recorded and we are unable to countenance that any belief based on such statements can ever be arrived at. The reasons have been recorded without any application of mind and thus no belief that income has escaped assessment can be stated to have been formed based on such reasons as recorded."*

There can be no manner of doubt that in the instant there was a failure of application of mind by the AO to the facts. In fact he proceeded on two wrong premises one regarding alleged non-filing of the return and the other regarding the extent of the so-called accommodation entries.

14. To compound matters further the in the assessment order the AO has, instead of adding a sum of Rs.78 lakh, even going by the reasons for reopening of the assessment, added a sum of Rs.1.13 crore. On what basis such an addition was made has not been explained.

15. For the aforementioned reasons, the Court is satisfied that no error was. committed by the ITAT in holding that reopening of the assessment under Section 147 of the Act was bad in law.

ITA NO. 4797/DEL/2019 A.Y.: M/S AASH TRADING VS. ITO, WARD 1(2),
The A.O. formed his opinion that assessee received accommodation entries of Rs.15 lakhs from M/s. Timon Infrastructure Pvt. Ltd. However, later on, it transpired that assessee has received only accommodation entry of Rs.5 lakhs. Thus, there is a factual error in the reasons recorded for reopening of the assessment. The reasons are based on incorrect and non-existing material. In the present case, the facts noted above clearly show that A.O. did not verify the report of the Investigation Wing and accepted the same as it is that assessee has received accommodation entries of Rs.15 lakhs despite it was a wrong and incorrect fact which would show that A.O. did not apply his mind to the information and material supplied by the

Investigation, Wing. Thus, the reopening of the assessment have been done totally without ITA NO. 4797/DEL/2019AY-2011-12 application of mind and without any justification. Similarly, in the case of assessee Shri Narender Kumar Gupta, A.O. recorded in the reasons that assessee received accommodation entry of Rs.15 lakhs, but, ultimately, it was found to be accommodation entry of Rs.10 lakhs. In the case of assessee Smt. Meena Gupta and Shri Sourav Jindal the A.O. recorded in the reasons that assessee received bogus entire of the purchases, but, later on it was found to be loan. Thus, these facts clearly show that A.O. without verifying the information received from the Investigation Wing, recorded the reasons for reopening of the assessment based on wrong and non-existing, incorrect facts. Thus, there was no justification for the authorities below to reopen the assessment in these four cases." ITA NO. 4797/DEL/2019 AY - 2011-12 5.1 Respectfully following the aforesaid precedent.

Ld. Counsel for assessee submitted that it is, therefore, clear that reopening is based on incorrect facts. It is well settled law that if wrong facts and wrong reasons are recorded for reopening of the assessment, such assessment is bad in law. In support of his contention he has relied upon order of the ITAT Delhi Bench in the case of M/s Ganesh Ganga Investments P. Ltd. Vs. ITO in ITA No. 1579/Del/2019 dated 07.11.2019 only in paras 8.5 to 9 are reproduced as under: "8.5. The statement of Shri Himanshu Verma is also filed on record which did not find mention if M/s. Shubh Propbuild Pvt. Ltd., as mentioned in the reasons belong to Shri Himanshu Verma. There is no investor exist in the name of M/s. Management Services Pvt. Ltd., and no addition in respect of the same company have been made by the A.O. The A.O, therefore, recorded incorrect facts in the reasons for reopening of the assessment. Thus the same cannot be approved under the Law. It is well settled Law if wrong facts and wrong reasons are recorded for reopening of the assessment, reopening of the assessment would be invalid and bad in Law. We rely upon Judgment of Hon'ble Punjab & Haryana High Court in the case of Atlas Cycle Industries 180 ITR 319 (P&H). It is well settled Law that note already filed with return disclosing nature of capital receipt and no other tangible material found, therefore, reopening of the assessment under section 148 was quashed. We rely upon Judgment of Hon'ble Delhi High Court in the case of CIT vs.. Atul Kumar Swami [2014] 362 ITR 693 (Del.) and Judgment of Hon'ble Allahabad High Court in the case of Kanpur Texel P. Ltd., 406 ITR 353 (Alld.). Similarly, in the case of CIT vs., Vardhaman Industries [2014] 363 ITR 625 (Raj.), the Hon'ble Rajasthan High Court has held that "reasons must be based on new and tangible materials. Notice based on documents already on record, 148 not valid." In the instant case under appeal, the A.O. has reproduced the information received from Investigation Wing and reproduced the same in the reasons recorded under section 148 of the 1.T. Act. This information shows that assessee has received the amount of credit from 06 parties, but, one of the party i.e.. M/s: Management Services Pvt. Ltd., do not exist and that M/s. Shubh Propbuild Pvt. Ltd., do not belong to Shri Himanshu Verma. It, therefore, appears that A.O. has not gone through the details of the information and has not even applied his mind and merely concluded that he has reason to believe that income chargeable to tax has escaped assessment. In the reasons A.O. has recorded that assessee has received accommodation entry of Rs.2.45 crores, but, ultimately made an addition of Rs.11.05 crores without bringing any material against the assessee. The reasons to believe are, therefore, not in fact reasons, but,

only conclusion of the A.O. In the case of Meenakshi Overseas Pvt. Ltd., (supra), the A.O. in the reasons has even mentioned that he has gone through the information received which is lacking in the present case. The A.O. being a quasi-judicial authority is expected to arrive at subjective satisfaction independently on his own. The A.O. however, merely repeated the report of the Investigation Wing in the reasons and formed his belief that income chargeable to tax has escaped assessment without arriving at his satisfaction.

Thus, there is no independent application of mind by the A.O. to the report of Investigation Wing to form the basis for recording the reasons. The reasons. recorded by the A.O. are also incorrect as noted above. The reasons failed to demonstrate the link between the alleged tangible material and the formation of reasons to believe that income chargeable to tax has escaped assessment.

In support of the same proposition, he has also relied upon order of the ITAT Delhi Bench in the case of M/s Key Components (P) Ltd. vs. ITO ITA No. 366/Del/2016 dated 12.02.2019 in which the reassessment proceedings have been quashed because the reopening was based on incorrect facts. The findings of Tribunal in para 6.3 to 7 are reproduced as under:

> *"6.3 Considering the above discussion, it is clear that there is a total non-application of mind on the part of the AO while recording the reasons for reopening of the assessment. He has recorded incorrect amount which escaped assessment. His conclusion was merely based on observations and information received from DIT(Inv.), New Delhi, which is not brought on record and his conclusion is merely based on doubts because he was not sure whether transaction in question is genuine or not. Therefore, the decisions relied upon by the Ld. Counsel for the assessee squarely apply to the facts and circumstances of the case. The decisions relied upon by the Ld. DR would not support the case of the Revenue. Since, there is a total lack of mind while recording the reasons for reopening of the assessment, therefore, assumption of jurisdiction under section 147/148 of the I.T. Act, 1961, is bad and illegal. The AO was not justified in assuming jurisdiction under section 147/148 of the I.T. Act, 1961. We, therefore, hold that reopening of the assessment in the matter is bad in law and illegal, as such, same cannot be sustained in law. We, accordingly, set aside the orders of the authorities below and quash the reopening of the assessment. Resultantly, all additions stand deleted."*

Absence of DATE in THE REASONS RECORDED and no mention of issuance of notice u/s 148 in the order sheet CAST DOUBT WHETHER THE SAME reasons WERE NOT EXISTING AT THE TIME OF ISSUE OF NOTICE AND FRAMED AFTER ISSUANCE OF NOTICE U/S 148,

This ground was brought in the knowledge of post CIT(A) order and hereby requested to take into consideration.

Recently we procured the copies of assessment record through the help of RTI act provisions where we came to know about some glaring facts:

Without prejudice to the above we bring to one more glaring point in the kind knowledge of Hon"ble ITAT that the reasons for reopening the case were never recorded before issuance of notice u/s 148 and the same were drafted only after the issuance of notice because the copy of reasons as placed in the assessment record contains huge discrepancy which is elaborated below pointwise:

1. Original reasons to reopen this case placed in assessment record does not contain any date(Undated) creating strong suspicion whether such reasons were drafted prior to issuance of notice u/s 148 or subsequent to issuance of notice u/s 148.

2. It is further noticed that such undated reasons were never supplied to the assessee because the Id.AO admittedly supplied some other reasons apart from the original reasons. (PB 220-221) Figure of escapement shown for Rs.3.99 crore dated 1.6.2007 in the garb of money received as capital.

3. It is strange that apart from the original undated reasons another new two set of reasons were supplied to the assessee subsequently at two times as admitted by Ld.AO in his assessment order and the assessment record. (PB 208-209) 15.6.2007 Figure for escapement changed to Rs.2.75 crore but assessment was finalized at Rs.4 crore. (PB-59)

4. It is further interesting that the figures of escapement of assessment and reasons mentioned are altogether different in all the reasons cumulated to three set of reasons as available on assessment record in original reasons (undated) at one time figure is Rs.2.75 crore and in the subsequent reasons the same was modified to Rs.3.99 crore by assessing officer on dated 1.6.2007 and again on dated 15.6.2007 figure changed from earlier to Rs.2.75 crore. (PB-29) Means thereby that the LD.AO was busy in modifying the figures without application of mind and in fact all the figures were incorrect as confirmed by the CIT(A) that the correct figure of addition in capital was Rs.3.05 crore as per the duly audited Balance sheet and assessment record. (Please refer the PB-217) being assessment record supplied by department under RTI)

5. There is no signed or unsigned order sheet entry in assessment record showing issuance of notice u/s 148 on the date of issue of such notice or the reasons recorded to reopen this case. (Please refer the PB-2) being assessment record supplied by department under RTI)

6. There is no order sheet on record showing thereon that the Ld. AO recorded the reasons which were supplied to the assessee on dated 01.6.2007 and 14.6.2007..(Please refer the PB 1 to 6) being assessment record supplied by department under RTI)

7. It is also noticed that there is no order sheet is on record which suggest that the reasons supplied by AO vide his letter dated 14.06.2007 were ever recorded. There is no mention of any date when such reasons were recorded in order sheet and who was the assessing officer who recorded such new reasons in the order sheet. Whether the officer who issued notice u/s 148 or the subsequent officer who supplied the reasons (Language of section

148(2) does not permit recording of reasons between date of issuance of notice and service of notice,law require recording of reasons before issuing notice. (Rajoo Engineering vs Dcit (2008)218 CTR(Gu)) 53.

8. There is complete violation of the ruling of the Hon'ble Supreme court case GKN Driveshaft wherein in absence of original reasons recorded prior to issuance of issue of notice u/s 148 the assessee was precluded from raising the objections on the legitimate reasons being recorded and such proceedings under section 148 are void and liable to be quashed.

9. Succeeding assessing officer cannot improve upon the reasons which were originally communicated to the assessee. In absence of reasons recorded in the order sheet but supplied to the assessee on 1.6.2007 and further improved/modified reasons supplied vide letter dated 15.6.2007 suggest that the reasons were recorded by succeeding assessing officer later on after issuance of notice u/s 148 first time after 1.6.2007 and not before the issuance of notice u/s 148 date 28.04.2007. This position of law is well settled by the Hon"ble Delhi High Court in case of Lykos India Private Limited vs Deputy Commissioner Of Income Tax wpc 16813/2023. In the order disposing of the objections which were raised by the assessee, the succeeding Assessing Officer has clearly attempted to improve upon the reasons which were originally communicated to the assessee. The validity of the notice reopening the assessment under section 148 has to be determined on the basis of the reasons which are disclosed to the assessee. Those reasons constitute the foundation of the action initiated by the Assessing Officer of reopening the assessment. Those reasons cannot be supplemented or improved upon subsequently.

The illegality of undated reason and non-mentioning of reason which were communicated in the order sheet is well supported with the settled legal proposition of law as held below by the Co-rdinated Bench of Hon"ble ITAT and Hon'ble High courts as below:

The HON"BLE PUNJAB AND HARYANA HIGH COURT IN ITA NO.91 OF 2019 PCIT vs Gurgaon vs Prahlad Singh HELD THAT "MOREOVER REASONS ARE UNDATED, HENCE DO NOT ESTABLISH THAT THEY WERE RECORDED PRIOR TO ISSUANCE OF NOTICE." ITA No. 84/Chd/2011 Shri Ramesh Kumar Dudani, Vs. The DCIT, Mohali Circle 6(1).

However, in the said report the Assessing Officer confirmed that there is no date on the reasons recorded for reopening. The perusal of the copy of reasons recorded for issue of notice u/s 148 of the Act also reveals that the same is undated. The assessee had raised objections to the reasons recorded for reopening by letter dated 13.7.2009 which were disposed of by the Assessing Officer. The Ld. DR for the Revenue has failed to bring on record any evidence to prove that the reasons for reopening u/s 148(2) of the Act were recorded prior to the issue of notice u/s 148(1) of the Act. In the absence of the same and applying the ratio laid down by the Hon'ble Punjab & Haryana High Court in Baldev Singh Gaini Vs. CIT (supra), we reverse the order of CIT(A). We hold that

the said reasons being not recorded before the issuance of notice u/s 148(1) of the Act, the proceedings initiated in the case were invalid and in violation of the provisions of the Act. Hence, the same are attracted to be quashed. The consequent assessment order passed u/s 143(3) read with section 148 of the Act is also quashed

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI BENCH ITA No.5436/Del/2019 Assessment Year: 2010-11 Sudhir Kumar, Vs. ITO In the present case also, on verification of the assessment record including the order sheets from the date of recording of reasons dated 27.03.2017 to 07.07.2017 clearly reveals that the order sheets by the AO from recording of reasons, issuing of notice u/s 148 of the Act and notices u/s 142(1) dated 25.05.2017 and dated 07.07.2017 are handwritten and there is no signature of the AO thereon. Thus, I safely hold that the AO neither complied with the statutory requirements and issuing notice u/s 148 of the Act nor complied with the law laid down by the Hon'ble Supreme Court in the case of reassessment proceedings. Consequently, I am compelled to hold that the AO did not have valid jurisdiction to initiate reassessment proceedings and to issue notice u/s 148 of the Act to the assessee. Therefore, notice issued u/s 148 of the Act, reassessment proceedings and the impugned reassessment order are bad in law. Accordingly, the same are quashed and the consequent reassessment order made u/s 147 r.w. section 143(3) of the Act is annulled and the appeal of the assessee is allowed on ground No.2. 8. Since, by the earlier part of this order, I have quashed the notice u/s 148 of the Act and have also annulled the impugned reassessment order, therefore, the other grounds of the assessee are not being adjudicated upon.

In the light of above factual and legal position and submission stated hereinabove we hereby submits that the appeal of the revenue be dismissed being devoid of any merit."

7. Heard both the parties. From the perusal of the orders of the lower authorities. It is seen that in the instant case, the action of reopening was done on the basis of the observations made by the Assessing Officer during the course of assessment proceedings for Assessment Year 2003-04 and the reasons recorded for reopening as reproduced by the Ld. CIT(A) in para 7.3 (B) which was supplied by the Assessing Officer vide letter dated 01.06.2007 are as under:

"During the assessment proceedings for the A.Y.2003-04 it was noticed that the assessee company had raised share capital of Rs.1.25 cr. at premium of Rs.2.74 crore during the previous year 2001-02 relevant to A.Y.2002-03 and invested in unquoted shares of other companies."

8. The Ld. CIT(A) further observed that sub-para C of para 7.3 of its order that the assessee requested the AO to supply the reasons recorded to reopen the assessment which was supplied by the AO vide letter dated 14.06.2007. On

perusal of the said reasons, the Ld. CIT(A) found that these reasons are new/modified/different reasons and accordingly, the Ld. CIT(A) has held that AO cannot improve or modified the reasons recorded. Now, surprisingly the ld. AR of the assessee drew our attention to the pages 34 & 35 of the paper book filed by the assessee containing the copy of reasons recorded for reopening u/s 147 of the Act for the year under appeal before us, which reads as under:

"Reasons for reopening u/s 147 of the IT Act in the case of M/s Nivia Agencies (P) Ltd., Flat No. 231, Derawal Nagar, Delhi for the A.Y 2002-03.

During assessment proceedings for the A. Y 2003-04 it was noticed that the assessee company had raised share capital of Rs. 1.25 crs at premium of Rs.2.74 crs during the previous year 2001-02 relevant to A.Y 2002-03 and invested in unquoted shares of other companies. To verify the genuineness of the transactions the Sh. Dinesh Kumar, ITI was deputed to make inquiries He has vide report dated 18 1 2006 reported as under-

As directed by the ITO Ward, 13(3), New Delhi I visited the following premises of the companies to enquire about their existence/genuineness My report is as under-

1. North Pole Builders (P) Ltd., C-1/2, Model Town, Delhi
2. Enjoy Commercial Pvt. Ltd., C-1/2, Model Town, Delhi
3. Galaxy Telecommunications Pvt. Ltd., C-1/2, Model Town, Delhi. This is residence of one Mr. Siddiqi. He told me that he did not know anything about these companies. None of the above company is located at the above address.

4. Norton Consultants (P) Ltd 52/76, Punjabi Bagh, New Delhi:-
I visited the above premises and enquired from the watchman and other neighbors. They informed that no such company is functioning from the given address.
5. M/s Mission Trading Pvt Ltd
6. M/s Tradition Commercial Pvt. Ltd
7. Glory Commercial Pvt Ltd

Address-39 1386 Chandni Chowk Delhi-

This premises is situated at 2nd Floor near Punjab National Bank. There is no office of the companies mentioned at Sl. No 5-7 Only one attendant, Sh. Satya Parkash was there When I enquired about the above companies he gave me Telephone No 23253230 of Sh. D.P Bansal CA and asked me to give details from him. There is no name plate of any of the Companies.

8 M/s North Pole Agencies Pvt Ltd

I visited the company at the given address No such company Exists at the above address. There is one company- M/s Bonanza Portfolio Lid I enquired from this company They have informed that there is no such con at the given address I enquired from the neighbors. Nobody knows anything about the company."

9. Now, we have three sets of reasons recorded. **First** set of reasons, as informed by the AO vide letter dated 01.06.2007 to Ld. CIT(A) which are reproduced at para 7.3 (b) of its order at page 25. **Second** set of reasons supplied by the AO to the assessee vide letter dated 14.06.2007 which are reproduced in para 7.3(c) at page 23 of the appellate order and now **third** set of reasons which are placed in the paper book filed by the assessee which appeared to be signed by ITO, Ward 13(3), New Delhi. During the course of hearing, the Bench has requested the DR to file the specified copies of such reasons as available in the PB pages 34-35 filed by the assessee within a period of one week from the conclusion of the hearing which were heard on 7th May, 2025. However, till the date when the order is dictated after waiting for period of more than 45 days no communication is received from the office of the Ld. DR, thus, we presumed that there is nothing contrary available with the Ld. DR to controvert to findings of the Ld. CIT(A) who made following observations in para 7.3 to 7.5 of the order while quashing the assessment order which are as under:

> *"7.3 Finding*
>
> *a) The undersigned has gone through the assessment order, written submissions of the appellant, Remand Report of the AO w.r.t these grounds of appeal. These Grounds of appeal are discussed and decided in the following paras of this order.*
>
> *b) The AR of the appellant vide letter dated 20.04.2007 requested for supply of the reasons recorded on basis of which the case of appellant was reopened. The AO vide letter dated 01.06.2007 supplied the following, reasons to believe to reopen the assessment. The same are reproduced as under:*
>
> *"During the assessment proceedings for the A.Y 2003-04 it was noticed that the assessee company had raised share capital of Re. 1.25cr at premium of Rs.2.74 crore during the previous year 2001-02 relevant to A.Y.2002-03 and invested in unquoted shares of other companies."*
>
> *c) The AR of the appellant vide letter dated 11.06.2007 again requested the AO for supply of 'reasons recorded to reopen the assessment". The AO vide letter dated 14.06.2007 the AO supplied new/modified/detailed 'reasons to reopen the assessment to the appellant. The same are reproduced as under:-*
>
> > *"Please refer to your letter dated 11/06/2007 received in this office on 14.06.2007 on the above subject. In this connection I am to inform you that the reasons have already been supplied to you, however, as desired, the detailed reasons are as under on the basis of which notice u/s 148 has been issued-*

During the assessment proceedings for the AY 2003-04 it was noticed that the assessee company has raised share capital of Rs.1.25 crore at premium of Rs.2.74 crore during the previous year 2001-02 relevant to AY 2002-03 and invested in unquoted shares of other companies to verify the genuineness of transactions with these companies necessary enquiry have been made however it was found that:

1.Northpole Builder Pvt. Ltd. 2. Enjoy Commercial Pot Ltd. 3. Galaxy Communication 4. Norton Consultants pot Ltd. 5.Mission Trading Pvt. Ltd 6. M/s Tradition Commercial Pvt. Ltd. 7. Glory Commercial Pot lid 8. M/s North Pole Agencies Pvt. Ltd.

None of the above company exist at given addresses

In view of these facts it is quite clear that the above companies do not exist therefore the amount of Rs.2,75,00,000/- allegedly received by the assessee company from the eight parties were never received as share capital, these were camouflaged transactions for introduction of funds in the garb of share capital Since the share capital was received during F.Y.2001-02 relevant to AY 2002-03,I have therefore reason to believe that income chargeable to tax amounting to Rs.2,75,00,000/- has escaped assessment for which action under section 147 of the IT act for the A.Y. is initiated.

d) The above facts show that new reasons/modified reasons/detailed reasons were introduced in the case of the Appellant. It is settled position in law that new reasons cannot be allowed to be introduced. The reasons recorded by the AO cannot be supplemented by recording new/detailed reasons. The AO cannot amend or change the 'reasons recorded by the AO for reopening the assessment". The deficiency in the reasons recorded cannot be rectified later by recording new/detailed reasons by the AO. In this connection reliance is placed on the following judicial pronouncements:

New Delhi Television Ltd us. DCIT

[CIVIL APPEAL NO. 1008 OF 2020; dated: 3rd April, 2020 Supreme court)

Hindustan Lever Ltd. vs. R.B. Wadkar [2004] 268ITR 332 (Bom.) (HC)

Mohinder Singh Gill vs. Chief Election AIR 1978 SC 851

Mrs. Usha A Kaltwani vs. S.N. Soni [2004] 272 ITR 67 (Bom) (HC)

Godrej Industries Ltd. v. B.S. Singh, Dy. CIT (2015) 377 ITR 1 (Bom.) (HC)
Aroni Commercial Ltd t/s DCIT (2014) 362 ITR 403 (Bom) (HC).

Northern Exim Pvt Ltd t/s Dy.CIT (2013) 362 ITR 586 (Del) (HC).

Best Cybercity (India) Pvt. Ltd. v. ITO (2019) 414 ITR 385 (Delhi) (HC) - Deficiency in reasons recorded cannot be rectified in affidavit Capri Global Advisory Services Pvt. Ltd. v DCIT-1(1)(1), ITA No. 170/Mum/2017, DOH: 10/04/2019 (Mum)(Trib)

e) It is not open to the AO to improve upon the reasons recorded either by adding and/or substituting the reasons or otherwise. Reliance is placed on judgment of Hon'ble Bombay High Court in case of GKN Sinter Metals Ltd. vs Rama Priya Raghvan ACIT (2015) 371 ITR 225 (Bom.).

f) The Hon'ble Bombay High Court in Amarjit Thapar (2019) 411 ITR 626 (Bom.) held that the court cannot allow the AO to improve upon the reasons in order to support the notice of reassessment.

g) The reopening of assessment u/s 147 is a potent power not to be lightly exercised. It cannot be invoked casually and mechanically by introducing new/detailed/supplementary reasons to believe. This is the bare minimum mandatory requirement for the first part of Section 147(1) of the Act.

h) The Hon'ble Bombay High Court in Indivest PTE Ltd. vs. ADIT (2012) 250 CTR 15 (Bom.) held that the AO attempted to improve upon the reasons which were originally communicated to the assessee. It was held that those reasons cannot be supplemented or improved upon subsequently as those reasons constitute the foundation of action initiated by the AO for reopening of assessment. It was held that the succeeding AO has clearly attempted to improve upon the reasons which were originally communicated to the assessee which is not permissible.

i) The above discussion based on court judgments clearly shows that the AO is not allowed to introduce new/detailed/supplementary reasons to believe in addition to the original reasons recorded as was done in the present case.

7.4 a) The original reasons recorded by the AO and supplied to the appellant vide letter dated 01.06.2007 were as under:-

> *"During the assessment proceedings for the A.Y.2003-04 it was noticed that the assessee company had raised share capital of Rs.1.25cr at premium of Rs.2.74 crore during the previous year 2001-02 relevant to A.Y 2002-03 and invested in unquoted shares of other companies"*

Subsequently, the AO made additions to the reasons recorded and same is reproduced in para 7.3(c) of this order.

b) It is has been held by Hon'ble Delhi High Court in CIT Vs Insecticides (India) Ltd. reported in 357 ITR 330 that the reasons recorded by the AO for initiating proceedings u/s 147 of the Act are to be considered for sustaining or setting aside a notice u/s 148. Reasons are required to be read as recorded by the AO. No substitution in the reasons recorded is permissible. In view of the same the reasons recorded by the AO as outlined in Para 7.4 (a) above are to be examined for sustaining or setting aside the notice u/s 148 issued by the AO

c) In the present case the basic requirement for reopening the case i.e. AO must apply his mind to material on record to have reasons to believe that income has escaped assessment is missing. The AO has nowhere mentioned in the reasons recorded that after application of mind he has come to a conclusion that he has reasons to believe that income has escaped assessment. Reopening of assessment in this case is not justified based on these reasons recorded. Reliance is placed in judgment of Hon'ble Delhi High Court in PCIT Vs. G&G Pharma India Ltd reported in 384 ITR 147 (Del.).

d) It is not disputed that the reasons recorded by the AO and supplied to the appellant vide letter dated 01.06.2007 show that the reasons recorded do not even remotely indicate independent application of mind by the AO nor has the AO given any finding that he has reasons to believe that income has escaped assessment. Before the AO can assume jurisdiction to issue notice u/s 148, two distinct conditions have to be satisfied.

i) He must have reasons to believe that income of the assessee has escaped assessment.

ii) He must have reason to believe that such escapement of income is by reason of the omission or failure on part of the assessee to disclose fully and truly all the material facts necessary.

Reliance is placed on judgment of Hon'ble Delhi High Court in Sarthak Securities Co. (P) Ltd Vs ITO reported in 329 ITR 110.

In the present case neither of the two conditions necessary for attracting the applicability of Section 147 (a) was satisfied, thus, the reassessment proceedings initiated by the AO cannot be held to be valid.

e) Perusal of the original reasons recorded by the AO as outlined in Para 7.4 (a)

above clearly show that the AO has not applied his mind to come at independent conclusion that he has reasons to believe that income has escaped assessment. The AO has recorded the reasons in a telegraphic manner and has not even written that he has reasons to believe that income of assessee has escaped assessment. Thus the reassessment proceedings initiated by the AO u/s 147 of the Act cannot be held to be valid and as per law. Reliance is placed on judgment of Hon'ble Delhi ITAT in case of ACIT Vs. M/s Pankaj Gas Cylinders Ltd. in ITA No. 5273/Del/2013 dated 03.05.2016.

1) In the present case the original reasons recorded by the AO as outlined in para 7.4 (a) of this order supplied to be appellant vide letter dated 01.06.2007 clearly show that the reasons recorded by the AO do not disclose as to by what process of reasoning the AO held belief that income has escaped assessment. No finding to such effect has been mentioned by the AO in the original reasons recorded by him. Reasons recorded do not indicate any material on record which lead to believe that appellant had any income which escaped assessment. Mandatory requirement of recording reasons in detail before issuance of notice u/s 148 is not fulfilled. Hence the reopening of assessment by the AO is not valid. Reliance is placed on judgment of Hon'ble ITAT, Hyderbad in Jasti Rama Rao vs ITO in ITA No. 630/Hyd/2007 in AY. 2000-2001 dt. 29.01.2010.

g) It has been held by Hon'ble Bombay High Court in Prashant S Joshi vs ITO (2010) reported in 324 ITR 154 (Bom.) that while examining the validity of reassessment proceedings, the reasons recorded by the AO alone would be relevant and such reasons cannot be supplemented.

h) In the present case the reasons recorded by the AO (As outlined in para 7.4 (a)) do not refer to any fresh tangible material based on which he could have formed an opinion that income has escaped assessment. Nothing in this regard has been mentioned in the reasons recorded. It even does not repeat the language of Section 147 that these was a failure by appellant to disclose fully and truly all material facts necessary and that income of appellant has escaped assessment. Thus the basic requirement of Section 147 has not been satisfied in the present case. Reliance placed on judgment of Hon'ble Delhi High Court in Best Cybercity (India) Ltd reported in 414 ITR 385 (Del.) dated 21.05.2019. Mere allegations in the reasons recorded cannot be treated as equivalent to material as per eyes of law. Hon'ble Delhi High Court in Agya Ram vs CIT in 386 ITR 545 dated 01.08.2016.

1) In the reasons recorded by the AO as reproduced in para 7.4 (a) above, the AO has not mentioned the following mandatory aspects:-

- *Failure to disclose all material facts by the appellant is not mentioned by the AO in the reasons recorded.*
- *AO had reasons to believe that income of appellant has escaped assessment is not mentioned in the reasons recorded by the AO*
- *There is no mention of any fresh tangible material with the AO for coming to a conclusion that there is an escapement of income.*

7.5 In view of the facts and respectfully following the judgments outlined in para 7.3 and 7.4 of this order, it is hereby held that the reopening of assessment proceedings u/s 147 r.w.s 148 of the Act has been done without satisfying the mandatory requirements of Section 147 r.w.s 148 of the Act. Hence the reopening of assessment u/s 147 r.w.s. 148 of the Act by the AO is hereby held to be invalid and the assessment order passed thereafter in pursuance to the reopening of assessment is quashed. Ground of appeal no. 3 and 5 are allowed.

8. The remaining Ground of appeal become academic in nature and do not require separate adjudication as Ground of appeal no. 3 and 5 have been allowed."

10. As observed above, the findings given by Ld. CIT(A) have not been controverted by the Ld. DR and looking to the fact that there are as many as three sets of reasons recorded are available before us, therefore, it appears that the AO has kept improving the reasons recorded which is not permissible under the Act and, accordingly, we find no infirmity in the order of Ld. CIT(A) in quashing the reassessment proceedings initiated on the basis of such vague and incomplete reasons which were modified / corrected of subsequent occasions by the Assessing Officer. In view of the above discussion, all the grounds taken by the Revenue are dismissed.

11. In the result, the appeal of the Revenue is dismissed.

Order pronounced in open court on 09.07.2025.

Sd/-	Sd/-
(MADHUMITA ROY)	**(MANISH AGARWAL)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 09.07.2025
PK/Ps
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI