

**THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

**ITA No.3238/Del/2024
(Assessment Year: 2012-13)**

Raj Kumar Mohalla Ratan Chandausi Uttar Pradesh - 202412	Vs.	ITO, 2(5) Income Tax Office, Behind SM Degree College, Chandausi Uttar Pradesh - 202412
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AQMPK9324M		
Appellant	..	Respondent

Appellant by :	Sh. Pranav Yadav, Adv
Respondent by :	Sh. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	04.06.2025
Date of Pronouncement	16.07.2025

ORDER

PER MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order passed by the Ld. CIT(A) NFAC, Delhi, dated 17.05.2024 arising out of the Assessment Order passed by the ITO-2(5) Chandausi, dated 17.12.2019 under Section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2012-13.

2. The assessee has taken the additional ground of appeal in the following manner:

- “1. On the facts of the case and in law, the notice u/s 148 issued in this case is bad-in-law, without jurisdiction and barred by limitation and, therefore, the said notice and assessment order passed is liable to be quashed.
2. On the facts of the case and in law, the reassessment proceedings initiated are contrary to provisions of section 147 to section 151 of the Act and therefore, the assessment order passed is liable to be quashed.
3. On the facts and circumstances of the case and in law, the assessment order passed by the assessing officer is liable to be quashed as statutory notice u/s 143(2) of the Income Tax Act, 1961 has not been issued.”

3. It is the case of the assessee that the additional grounds are purely legal in nature and go to the root of the matter and no new fact has been brought on record. In that view of the matter the judgment passed by the Hon’ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT, reported in (1998) 229 ITR 383 (SC) these legal grounds to be admitted. It was further contended by the Ld. Counsel appearing for the assessee that the legal grounds can be raised at any stage of proceeding which has further been held by the Hon’ble Apex Court in the case of CIT vs. Sinhgad Technical Education Society, reported in (2017) 84 taxmann.com 290 (SC).

4. The Ld. DR has not been able to controvert such contentions made by the Ld. AR.

5. Having regard to the ratio laid down in the judgment referred above, we accept the contentions made by the Ld. AR and admit these additional ground of appeal.

6. At the very threshold of the matter, the Ld. Counsel appearing for the assessee submitted before us that the assessment order is liable to be quashed as statutory notice under Section 143(2) was not issued. In fact, in response to the notice issued under Section 148 dated 28.03.2019 for assumption of jurisdiction in reopening of assessment the assessee duly filed its return of income on 12.04.2019, however, no notice, thereafter, under Section 143(2) of the Act was issued and assessment was completed upon making addition in the hands of the assessee. In addition to that, the approval under Section 151 of the Act granted by the PCIT is evidently mechanical in nature as also submitted by him and a copy of the approval letter dated 28.03.2019 has duly been furnished before us. In this respect he has drawn our attention to the last page of the approval where the PCIT notes "Yes I am satisfied on the reasons recorded by the AO that it is a fit case for issue notice under Section 148 of the Act". According to the Ld. AR the same, is nothing but a mechanical approval without application of mind in the same therefore, not valid for initiating the reassessment proceeding. No material, information and/or documents are found to have been found gone through and further examined by the said authority is also evident from such noting made by the PCIT. Having regard to this particular aspect of the matter the approval under Section 151 of the Act, since, admittedly mechanical one and without application of mind, the reassessment proceeding itself initiated upon issuance of notice under Section 148 of

the Act, is, therefore, void and thus, liable to be quashed as is the crux of the argument advanced by the Ld. AR. The Ld. AR in support of his contention relied upon very many judgments including the Coordinate Bench in the case of Dharmender Kumar c/o Raj Kumar & Associates Vs. ITO, Ward 65(5), New Delhi reported in 2019 (10) TMI 736, ITAT Delhi. The Ld. AR further relied upon the following judgments:

- **United Electrical Co. P. LTD. V. CIT. - 2002 (10) TMI 86 - Delhi High Court.**
- **M/S. Bull Riders Financial Services (P) Ltd. V. ITO. - 2020 (2) TMI 459 - ITAT Delhi**
- **Rishendra Pal Singh V. ITO. - 2020 (5) TMI 507 - ITAT Delhi**
- **Silkina Commodeal Pvt. Ltd. V. ITO. - 2024 (3) TMI 610 - ITAT Kolkata**
- **DCIT V. Ram Kumar Shokeen and (VICE-VERSA). - 2024 (6) TMI 657 - ITAT Delhi**
- **Heat Flown Electricals Pvt. Ltd. V. ITO. - 2019 (12) TMI 910 - ITAT Delhi**
- **Agroha Fincap Ltd., Raj Kumar & Associates, V. ITO. - 2019 (10) TMI 857 - ITAT Delhi**
- **M/S Tara Alloys Ltd. V. ITO. - 2018 (6) TMI 145 - ITAT New Delhi**

7. On the other hand, the Ld. DR failed to controvert such submissions made by the Ld. AR, neither has been able to rely upon any judgment in support of such approval granted by the PCIT under Section 151 for reopening of assessment under Section 148 of the Act. He, therefore, relying upon the orders passed by the authorities below.

8. We have heard the rival contention made by the respective parties and perused the relevant material available on record. Having regard to

the facts and circumstances of the matter, we have carefully gone through the entire records specially the Assessment Order, the Appellate Order, the reasons/satisfaction/approval recorded for issuance of notice under Section 148 of the Act. Upon perusal of the proforma under Section 151 of the Act dated 28.03.2019 particularly the last page of the said proforma wherein the noting made by the Ld. PCIT to this effect “Yes I am satisfied on the reasons recorded by the AO that it is a fit case for issue notice under Section 148 of the Act”; admittedly appears to be mechanical. It does not reveal as to which material, information, documents and other aspects has been gone through and examined by the said authority for reach to the satisfaction for granting approval under Section 151 of the Act giving license to the AO to reopen the assessment under Section 148 of the Act. In that view of the matter in our considered opinion the reopening in the case of the assessee before us in dispute is palpably bad in law and, therefore, liable to be quashed.

9. On this aspect of the matter, we have also considered the judgment passed by the different authorities as relied upon by the Ld. Counsel appearing for the assessee and we are inspired by the ratio laid down therein. In fact, from these plethora of judgments it is found that such kind of approval cannot be said to be a valid one rather nothing but a product of non application of mind and, therefore, liable to be quashed. Furthermore, the reassessment proceeding under Section 148 of the Act on the basis of such approval granted by the PCIT under Section 151 of the Act is found to have no legs to stand upon as the approval is in our considered opinion is invalid. Thus, having regard to the entire aspect of the matter, with the aforesaid observation, we quash the entire

proceeding initiated under Section 148 of the Act since, it is found to void-ab-initio proceeded on the basis of approval which is not only invalid but also a product of non application of mind. The entire proceeding is, therefore, set aside.

10. The appeal of the assessee is allowed.

Order pronounced in the open court on 16.07.2025

Sd/-
(Khettra Mohan Roy)
ACCOUNTANT MEMBER

Sd/-
(Madhumita Roy)
JUDICIAL MEMBER

Dated 16.07.2025

Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI