



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RANCHI BENCH, RANCHI**

**BEFORE S/HRI GEORGE MATHAN, JUDICIAL MEMBER AND  
RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.51/RAN/2020**

Assessment Year : 2009-2010

Sri Dhrub Narayan Parihast, S/O. Shri Deo Narayan Parihast, Dhanuk Tola, Jousagarhi, Deoghar.	Vs.	Income Tax Office, Ward- 3(1), Deoghar
PAN/GIR No.BMRPP 9353 D		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Devesh Poddar, Adv  
Revenue by : Shri Khub Chand Pandya,, Id Sr DR

**Date of Hearing : 18/08/2025**

**Date of Pronouncement : 18/08/2025**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id  
CIT(A), Dhanbad dated 19.9.2019 in Appeal  
No.CIT(A),Dhanbad/10147/2016-17 for the assessment year 2009-2010.

2. Shri Devesh Poddar, Id AR appeared for the assessee. Shri Khub  
Chand Pandya, Id Sr DR represented on behalf of the revenue.

3. Ld A.R. of the assessee has filed written synopsis as follows:

In the matter of Sri Dhrub Narayan Parihast  
Deoghar

(1)

Before,

**Hon'ble Income Tax Appellate Tribunal  
Ranchi Bench,  
Ranchi**

**ITA No. 51/Ran/2020**

**Assessment Year : 2009 -10**

**Points in Dispute.**

- 1) The legal issue involved in this appeal of the assessee is with respect to the very reasons recorded by the Ld AO for initiation of proceedings U/s 148. The certified copy of the reasons recorded is attached herewith at Page 05 of the paper book.
- 2) That from the reasons recorded, it can be seen that the same is simply based upon some vague information received from the investigation unit without any independent conclusion demonstrating the reasons to believe by the AO himself. The contents of the reasons recorded are not factually correct and moreover the AO in the reasons recorded itself mentions that the information and transaction details needs to be verified.
- 3) That from the reasons recorded for initiation of proceedings U/s 148, it can be seen that there was no individual application of mind by the AO and that the reasons recorded does not speak for itself. The reasons recorded at best can be considered as a borrowed satisfaction and or reasons to suspect but cannot be taken as reasons to believe recorded by the AO.
- 4) That in the reasons recorded, the AO vaguely mentions that the assessee has earned Rs. One Crore approx from sale of land but ITR for the year has not been filed. No details of the land sold, date of agreement, name of parties etc has been mentioned. In contrary to the above, in the order of assessment, it can be seen that no addition or discussion has been made regarding any sale of land/asset by the assessee during the year under consideration.
- 5) That in the reasons recorded, the AO has vaguely stated that the assessee has invested more than Rs. One Crore in house property during the calendar year 2009 & 2010, however has failed to draw any specific charge for escapement of income in the year under consideration.
- 6) That in the reasons recorded it has been vaguely mentioned that the assessee has made investment in land in name of his father and mother and that some of these lands have

been sold during the calendar year 2009 & 2010. As a matter of fact, no such investment has been made by the assessee during the year in name of his father & mother. Investment if any, has been made in name of the assessee and his wife. Moreover no such investment made has been sold in the year under consideration. Sale of land property which has been made in name of the mother is the ancestral land and addition if any, should be only made in her individual hands. (2)

- 7) That lastly, we would like to submit that similar reasons were recorded in case of the mother of the assessee **Smt. Mahehwari Devi**, in which on this very legal issue, Hon'ble ITAT coordinated Bench in **ITA No. 259/Ran/2019 dated 06/03/2020** quashed the reassessment proceedings holding as below:-

3. *Learned departmental representative fails to dispute that the Assessing Officer had himself made it clear that the issue of the corresponding sale transactions required to be verified. I find in this backdrop that hon'ble Gujarat high court's judgment in Principal Commissioner of Income Tax-5 vs. Manzil Dineshkumar Shah (2018) 406 ITR 326 (Guj) holding that Assessing Officer cannot take recourse the impugned proceedings just for the purpose of verification as has been upheld up to the hon'ble apex court in Principal Commissioner of Income Tax-5 vs. Manzil Dineshkumar Shah (2019) 101 taxmann.com 259 (SC) I adopt the very reasoning mutatis mutandis herein to quash the impugned assessment. All other pleadings on merits are rendered infructuous.*

4. *This assessee's appeal is allowed.*

The revenue preferred an appeal before the Hon'ble High Court vide **TA No. 36 of 2020** wherein the following question of law was framed:-

***Whether in the facts and circumstances of the case the reasons to believe recorded by the Assessing Officer is sufficient to proceed in the case under section 148 read with section 147 of the Income Tax Act for re-assessment of the case of the assessee for the assessment year 2010-11?***

***Whether in facts and circumstances of the case, the impugned order passed by the learned ITAT is perverse in the eyes of law?***

The Hon'ble High Court vide its **order dated 21/11/2022** has upheld the order passed by ITAT stating that:-

*11. At the cost of repetition, there cannot be any re-assessment for a reason to suspect and re-assessment is only to be done if the Assessing Officer has reasons to believe that the Assessee has escaped assessment. Without going into the other argument of the petitioner and merits of the case; the instant appeal requires to be dismissed on*

(3)

the sole ground that the Assessing Officer was not having any reason to believe for initiating re-assessment which is clear from the recorded reason to believe (Annexure-1) itself. The learned tribunal has not committed any error in applying the judgment passed in the case of Dinesh Kurmar Sah (supra). Consequently, the question of law framed in this case is answered against the department.

12. Accordingly, the instant appeal is dismissed.

The copy of the order passed by the Hon'ble High Court in case of Smt Maheshwari Devi is attached herewith at Page 06 – 16.

8) That apart from the others, we would also like to quote:-

- **Harish Gangji Dedhiya v. Union of India [2022] 140 taxmann.com 344 (Bombay) / [2022] 443 ITR 273 (Bombay)**

*Whether since from reasons recorded by Assessing Officer it was not clear from which shares/derivatives assessee had made huge profits there was no demonstrable link between information and formation of belief that assessee's income had escaped assessment - Held, yes - Whether impugned reopening notice deserved to be quashed and set aside - Held, yes [Paras 10 and 13]*

*Therefore, there must be live link or close nexus between the material before the ITO in the case at hand and the belief which he was to form recording the escapement of income. It is also no doubt true that Court cannot go into the sufficiency or adequacy of the material and substitute its own opinion for that of the Income Tax Officer on the point as to whether action should be initiated for re-opening assessment but at the same time, it is not any and every material, however vague and indefinite or distant, remote and far-fetched which would warrant the formation of the belief relating to escapement of the income of the assessee from assessment. It is also settled law that the reasons for re-opening assessment has to be tested/examined only on the basis of the reasons recorded at the time of issuing a notice under Section 148 of the Act seeking to re-open the assessment.*

[Para 12]

- **Principal Commissioner of Income Tax v. RMG Polyvinyl (I) Ltd [2017] 396 ITR 5 (Delhi)**

*Whether information received from investigation wing could not be said to be tangible material per se without a further inquiry being undertaken by Assessing Officer to establish link between 'tangible material' and formation of reason to believe that income had escaped assessment and consequently, reassessment was unjustified - Held, yes*

[Para 13]

- (4)
- Surani Steel Tubes Ltd v. Income Tax Officer [2022] 136 taxmann.com 139 (Gujarat)

*In our opinion, in absence of specific details as regards particulars of nature of transaction basic details of information, clarity with regard to name of person with whom such transaction has been entered into, goes to the very root of the matter. The sole object of providing reasons for reopening of the assessment is to prima facie supply the relevant material to the assessee to meet with his case and at the same time, it reflects the basic ingredients of "reason to believe" for Assessing Officer to assume the jurisdiction under sections 147 and 148 of the Income-tax Act. At the same time, such non-recording of specific details lead us to belief that without proper application of mind, the Assessing Officer has solely and mechanically relying upon the information received from Investigation Wing, has issued impugned notice. Thus we are not convinced with the manner in which satisfaction is arrived at by the respondent, as recorded in the reasons supplied to the petitioner Company, for assuming jurisdiction to reopen the assessment of relevant A.Y. 2014-15/2015-16.*  
[Para 10]

- Principal Commissioner of Income Tax 4 v. G & G Pharma India Ltd [2016] 384 ITR 147 (Delhi)

*The above conclusion is unhelpful in understanding whether the AO applied his mind to the materials that he talks about particularly since he did not describe what those materials were. Once the date on which the so called accommodation entries were provided is known, it would not have been difficult for the AO, if he had in fact undertaken the exercise, to make a reference to the manner in which those very entries were provided in the accounts of the Assessee, which must have been tendered along with the return, which was filed on 14th November 2004 and was processed under Section 143(3) of the Act.*

*In the considered view of the Court, in light of the law explained with sufficient clarity by the Supreme Court in the decisions discussed hereinbefore, the basic requirement that the AO must apply his mind to the materials in order to have reasons to believe that the income of the Assessee escaped assessment is missing in the present case.*  
[Para 12]

As such, in light of the above mentioned facts and decisions quoted, we submit that this assessment proceeding is fit to be quashed since the very reasons recorded for initiation of 148 proceedings in bad in law.

We shall be grateful for your kind consideration on the above.

Filed by:-  
Poddar  
Devesh Poddar

4. Ld AR drew our attention to page 5 of paper book which is the reasons recorded for the purposes of reopening, which reads as follows:

“Information is received from the DDIT (Inv) Dhanbad vide F.No.DDIT(Inv)DHN/T392X/2015-16/1318 dated 28<sup>th</sup> MARCH, 2016 THAT Shri Dhruv Narayan Parihast S/O Shri Deo Narayan Parihast, Dhanuktola, Deoghar has earned income of Rs.12 lakhs to 15 lakhs annually from his profession as purohit/puja work. He also earned income of Rs.one crore approx on sale of land but income tax return has not filed for the A.Y. 2009-10.

He has invested more than Rs. One crore in house property during the calendar year 2009- & 2010. He has also invested in land in the name of his mother and father. Some of these land properties have also been sold during the calendar year 2009 & 2010 earning lakhs of rupees from these sale transaction which need to be verified.

In view of the above facts, I have reason to believe that the income from purohit/puja works and income from sale of land have escaped assessment. Therefore, it is necessary to issue notice u/s.148 of the Income tax Act 1961 to assess the income of the assessee for the A.Y. 2009-10.

Since more than four years have been passed from the end of the relevant assessment year and tax effect on income escaping assessment is more than one lakh, hence the approval of Pr. Commissioner of Income Tax is necessary. Therefore, the proposal is being sent to the Pr. CIT, Dhanbad for kind perusal and approval.”

5. It was the submission that the reasons recorded is clearly a fishing and roving enquiry and under similar circumstances, the Hon'ble Jurisdictional High Court of Jharkhand in Tax Appeal No.36 of 2020 dated 21.11.2022 in the case of the assessee's mother has quashed the reopening by referring the decision of Hon'ble Supreme Court in the case of ITO vs Lakhmani Mewal Das, (1976) 103 ITR 437 (SC) as also the decision of Hon'ble Jurisdictional High Court in the case of Naveen Kumar Jaiswal vs Income Tax Department –W.P.(T) No.675 of 2022 (Ranchi) reported in 2022 SCC Online Jhar 189. It was the submission that as the Hon'ble Jurisdictional High Court has quashed the identical reasons recorded for

reopening of assessment in assessee's mother case, the impugned reasons recorded are liable to be quashed.

6. In reply, Id Sr DR vehemently supported the order of the AO and Id CIT(A). It was the submission that the order of the Id CIT(A) be upheld.

7. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessee was working as "Head Pujari" in Shiv Temple during the impugned period. The Assessing Officer has reopened the assessment on the basis of investigation report. The Hon'ble Jurisdictional High Court has in the case of assessee's mother quashed the reopening by holding as follows:

"9. By going through the aforesaid definition it is abundantly clear that before opening any re-assessment proceedings the assessing Officer has to record reason to believe that any income chargeable to tax has escaped assessment for the relevant assessment year. Now coming back to the case we have to analyze as to whether the Assessing Officer was having any reason to believe that the Assessee had escaped assessment. For brevity, reason recorded by the AO is extracted herein below:

"03.03.2016.

Information is received from the DDIT (Inv), Dhanbad vide F.No. DDIT (Inv)/ DHN/T392X/2015-16/1318 dated 28th March, 2016 that Smt. Maheshwari Devi W/o Shri Deo Narayan Parihast, Dhanukdtola, Deoghar has sold 35 acres land amounting to Rs. One crore but income Tax return has not filed for the A.Y 2009-10.

He has invested huge amount in land during the year. Some of these land properties have also been sold during the year and earning lakhs of rupees from these sale transaction which need to be verified.

In view of the above facts, I have reason to believe that the income from sale of land have escaped from assessment. Therefore, it is necessary to issue notice [u/s 148](#) of the Income Tax Act, 1961 to assess the income of the assessee for the A.Y 2009-10.

Since more than four years have been passed from the end of the relevant assessment year and tax effect on income escaping assessment is more than one lakh. Hence, the approval of Pr. Commissioner of Income Tax is necessary. Therefore, the proposal is being sent to the Pr. Commissioner of Income tax, Dhanbad for kind perusal and approval."

10. By going through the aforesaid reason mentioned at Annexure-1, it appears that the assessing officer himself made it clear that the issue of the corresponding sale transaction required to be verified. Now the law is no more res integra, inasmuch as, the Assessing Officer cannot take recourse of reassessment proceeding just for the purpose of verification. There is a difference between reason to believe and reason to suspect.

In the case of Income Tax Officer Versus Lakhmani Mewal Das, reported in [1976] 103 ITR 437 (SC) it has been succinctly defined that the reason for the formation of the believe must be held in good faith and should not be a mere pretence the powers of Income Tax Officer to reopen assessment, though wide, or not plenary the words of statute are "reason to believe" and not "reason to suspect". It is therefore essential that before such action is taken the requirement of law should be satisfied.

Further, this Court in the case of Naveen Kumar Jaiswal Versus Income Tax Department- W.P.(T) No. 675 of 2022 (Ranchi) reported in 2022 SCC Online Jhar 189, has held at paragraph 11 and 12 has held as under;

"11. It is well settled principles with regard to reassessment. A reassessment proceeding is to be adjudged on the basis of "reason to believe" disclosed to the Assessee and the said reasons cannot be supplemented by the revenue as the reasons have to speak for themselves."

8. As it is noticed that the reasons recorded in assessee's case is identical to the reasons recorded in assessee's mother, which has been quashed by the Hon'ble Jurisdictional High Court, respectfully following the principles laid down by the Hon'ble Jurisdictional High Court (supra) in the case of assessee's mother i.e. Smt.Maheshwari Devi, the reopening in respect of the impugned case stands quashed. Consequently, the impugned assessment order stands quashed.

9. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 18/08/2025.

Sd/-  
**(RATNESH NANDAN SAHAY)**  
**ACCOUNTANT MEMBER**

sd/-  
**(GEORGE MATHAN)**  
**JUDICIAL MEMBER**

Ranchi ; Dated 18/08/2025  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Sri Dhrub Narayan Parihast, S/O. Shri Deo Narayan Parihast, Dhanuk Tola, Jousagarhi, Deoghar
2. The Respondent: Income Tax Office, Ward-3(1), Deoghar
3. The CIT(A)- Dhanbad
4. Pr.CIT, Dhanbad
5. DR, ITAT, Ranchi
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Ranchi**