

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER  
AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No. 8304/DEL/2019  
Assessment year: 2011-12**

<b>Raghav Technology P. Ltd., L-7A (LGF) South Extension, Part-2, New Delhi. PAN: AADCR 5922 J</b>	<u>Vs</u>	<b>Income Tax Officer, Ward-20(4), New Delhi</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	Shri Raj Kumar, C.A
<b>Department represented by</b>	Ms. Harpreet Kaur Hansra, Sr. DR
<b>Date of hearing</b>	23.07.2025
<b>Date of pronouncement</b>	30 .09.2025

**ORDER**

**PER AMITABH SHUKLA, A.M:**

This appeal, preferred by the assessee for assessment year 2011-12, is directed against the order of Commissioner of Income-tax (Appeals)-7, New Delhi dated 22.08.2019 in appeal No. 10391/386/CIT(A)-7/Del/2018-19 against the order dated 13.12.2018 passed by the ITO,

Ward 20(4), New Delhi u/s 147/143(3) of the Income-tax Act (hereinafter referred to as the “Act”).

2.0 The assessee has assailed the order of Ld.CIT(A) both on legal grounds as well as on the merits of the addition. During the course of present proceedings, the assessee had raised an additional ground of appeal challenging the invocation of action u/s 153C viz-a-viz with that u/s 148. The impugned additional ground of appeal “not pressed” during the course of present hearing and hence is dismissed. As the legal grounds raised by the assessee challenging validity of approval of the PCIT to issue notice u/s 148 goes to the very root of the controversy and form basis for passing of reassessment order, we deem it appropriate to attend the same first. The impugned notice u/s 148 issued after approval of PCIT is the foundation for the superstructure being the reassessment order. It is trite law that when the foundation collapses the superstructure cannot survive.

3.0 Through the ground of appeal no.2, the assessee has contested that the approval accorded by the PCIT for issuance of notice u/s 148 is a mechanical approval without any application of mind and that the same is fatal to the issuance of notice u/s 148 and the corresponding reassessment order. The Ld.Counsel submitted that in this case based upon the information from the investigation wing regarding accommodation provided by one Shri Surendra Kumar Jain, the Ld.AO had proceeded to issued notice u/s 148 dated 26.03.2018 after obtaining approval of the supervisory commissioner of Income Tax. It is the case of the assessee that the approval accorded by the commissioner of Income Tax with the remarks **“Yes it is a fit case for issue of notice u/s 148 / 147 of the Act 1961”** is

a mechanical approval without any independent application of mind (page No.19 and 19A of paper book). The Ld.Counsel has filed a detailed paper book in support of its contentions. It is the case of the assessee that in its own case for AY-2009-10 and AY-2010-11 (page nos. 20 to 27 of paper book) this tribunal has held that mechanical approvals would be fatal to the issuance of notice u/s 148. In support of its contentions, the Ld.AR has placed reliance upon a catena of cases of this tribunal, Hon'ble Mumbai Tribunal, Hon'ble Delhi High Court and the Hon'ble Apex Court wherein it has been held that independent application of mind is a prerequisite while according approval by PCIT u/s 148 and that absence thereof would be fatal to the notice u/s 148 per se. It was accordingly requested that as the notice u/s 148 is based upon a routine mechanical approval given without any application of mind, the same deserves to be quashed and that the corresponding assessment order be declared a nullity.

4.0 Per contra, the Ld.DR relied upon the order of lower authorities.

5.0 We have heard the rival submissions in the light of material available on records. It is an undisputed fact on record that the approval has been accorded by the PCIT on 22.03.2018 by recording following in Column No.13 of the prescribed form for recording reasons "Yes, it is a fit case for issue of notice u/s 148 r.w.s.147 of IT Act 1961". We have noted that in its decision as at ITA No.1144/Del/2018 dated 29.04.2019, in assessee's own case for AY-2009-10, this tribunal on nearly identical facts allowed the appeal of the assessee holding that approval without application of mind was fatal to notice u/s 148. The impugned decision was taken after analyzing several decisions of Delhi High Court, Bombay High Court, MP High Court as well as those of ITAT Delhi and Mumbai.

6.0 Thus, in its decision as at ITA No.1144/Del/2018 dated 29.04.2019 it was held

*“.....8. I have considered the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that the case of the assessee was reopened by the Assessing Officer after recording reasons and issue of notice u/s 148 as per the provisions of section 147 and 148 of the Act on the basis of the information received from the Investigation Wing that the assessee is a beneficiary of accommodation entry obtained from Surendra Kumar Jain group of cases towards introduction of share capital of Rs.35 lacs. I find, the assessee has taken a specific ground before the CIT(A) challenging the validity of reassessment proceedings on the ground that approval u/s 151 of the Act of the superior authorities is not in accordance with law. The relevant ground of appeal No.2 taken before the CIT(A) reads as under:-*

*“2. That under the facts and circumstances, approval u/s 151 of the superior authorities is not accordance with law and otherwise also mechanical and without application of mind, making the re-asstt. Proceedings unsustainable in law.”*

*9. I find the above ground has been extracted by the CIT(A) in the body of the order. She has also mentioned at para 3.2 of the order that the assessee contended that there was no proper compliance of the provisions of section 151 of the IT Act, 1961. However, her finding on this issue is missing in the entire order. A perusal of the approval given u/s 151, copy of which is placed at pages 20 and 21 of the paper book shows that the Pr. CIT while giving approval has simply mentioned as under:-*

*“Yes. I am satisfied.”*

*10. I find, the Hon'ble Delhi High Court in the case of United Electrical Company Pvt. Ltd. (supra) while deciding an identical issue has held that the power vested in the commissioner u/s 151 to grant or not to grant approval to the Assessing Officer to reopen an assessment is coupled with a duty. The commissioner is required to apply his mind to the proposal put*

*up to him for approval in the light of the material relied upon by the Assessing Officer. That power cannot be exercised casually and in a routine manner. Accordingly, the Hon'ble High Court quashed the notice, since there was no proper application of mind by the Addl.CIT.*

*11. I find the Hon'ble Delhi High Court in the case of Pr. CIT vs. N.C. Cables Ltd., while deciding an identical issue has held that section 151 of the Act clearly stipulates that the CIT, who is the competent authority to authorize the reassessment notice has to apply his mind and form an opinion. Mere appending of the expression 'approved' says nothing. It is not as if the commissioner has to record elaborate reasons for agreeing with the noting put up before him. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner.*

*When such exercise appears to have been ritualistic and formal rather than meaningful which is the rationale for the safeguard of an approval by a higher ranking official, the finding of the Tribunal quashing the reassessment proceedings cannot be disturbed.*

*12. I find the Hon'ble Supreme Court in the case of Chhugamal Rajpal vs. S.P. Chaliha & Ors (supra) has held that where the commissioner had mechanically recorded permission and the important safeguards provided in the section 147 and 151 were lightly treated by the officer and the commissioner, the notice issued u/s 148 was held as invalid. The various other decisions relied on by the Id. counsel for the assessee in the paper book also support his case. Since, in the instant case, admittedly, the Id. PCIT while granting approval has simply mentioned 'Yes. I am satisfied' therefore, following the decisions of the jurisdictional High Court (cited supra) on this issue which are binding on the Tribunal, the reassessment proceedings are to be treated as not in accordance with the law since the approval has been given in a mechanical manner without due application of mind by the approving authority. I, therefore, allow ground of appeal No.2 by the assessee challenging the validity of reassessment proceedings. Since the assessee succeeds on this legal ground, the various other*

*grounds raised by the assessee are not being adjudicated being academic in nature.*

*13. In the result, the appeal filed by the assessee is allowed....”*

7.0 Similar view has been held in the decision of this tribunal in ITA No.1957 / Del / 2019 holding that independent application of mind by PCIT is *sina qua non* for approving issuance of notice u/s 148 and that absence thereof would be fatal to the reassessment proceedings *per se*. Further, Hon'ble Supreme Court in the case of Chugmal Rajpal Vs SP Chaliha have held that mechanical approval act against safeguards provided u/s 147 and 151 and hence cannot be lightly taken. Accordingly, we are of the view that in this case mechanical approval was given by the PCIT for reopening of assessment u/s 147 / 148. So being the case, in respectful compliance to the decisions discussed herein above, the notice u/s 148 attains nullity. Accordingly, we are of the considered view that as the notice u/s 148 is infructuous and set aside the corresponding reassessment order would also not survive. Accordingly, the assessee succeeds in his legal challenge to the notice u/s 148. **All grounds of appeal on this issue are therefore allowed.**

8.0 As the assessee has succeeded in his legal challenge to the notice u/s 148 and corresponding reassessment order which has been declared a nullity, all the grounds of appeal raised qua merits of the addition have become purely academic in nature.

9.0 In the result the appeal of the assessee is allowed.

Order pronounced in open court on 30<sup>th</sup> Sept-2025

**Sd/-**

**Sd/-**

**(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

**(AMITABH SHUKLA )  
ACCOUNTANT MEMBER**

**Dated: 30 .09.2025.**

**\*Shri Damodhar Kutty, Sr.PS\***

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**