

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

**(HYBRID COURT)**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

**I.T.A. No. 363/Asr/2024**  
Assessment Year: 2016-17

Income Tax Officer,  
Ward-4(2), Jalandhar  
Civil Lines

Vs.

Sh. Barjesh Singhal,  
Room No. 109, Ground Floor,  
C.R. Building (Old Wing),  
Civil Lines, Jalandhar, Punjab  
144001

[PAN: ACUPS 7288N]

**(Appellant)**

**(Respondent)**

Appellant by : None (Written submission)  
Respondent by : Sh. Charan Dass, Sr. D.R.  
Date of Hearing : 15.07.2025  
Date of Pronouncement : 13.10.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the revenue against the order of the Id. CIT (A) NFAC, Delhi dated 24.04.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, Ward-4(2), Jalandhar passed u/s 147 r.w.s. 144 of the Act, 1961 dated 30.03.2022.

2. Grounds of appeal taken by the revenue in Form No. 36 are as follows:

- “(i) Whether on the facts and circumstances of the case the Ld. CIT(A) has erred to allow the appeal of the assessee and quashed the assessment u/s 147 by holding that the proceedings initiated for reopening of assessment on mere change of opinion is not correct because the AO has opened the case u/s 147 within the time period and AO have reasons to believe that the assessee has not disclosed the facts fully and truly as per the return of income.*
- (ii) Whether on the facts and in the circumstances of the case, the Ld CIT(A) has erred in holding that the reopening of assessment is not sustainable, ignoring the aspect that there is not conclusive discussion on the issue of genuineness and credit worthiness of the lenders in the original Assessment order and no details were called for by the Assessing Officer nor any findings showing the genuineness and valid creditors was arrived at during the course of original Assessment proceedings.*
- (iii) Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding that re-appreciation of material already available on record amounts to true and full disclosure within the meaning Section 147 of the Income Tax Act, 1961, ignoring the Explanation 1 to Section 147 of the Income Tax Act, 1961?*

3. On the date of hearing, there was no physical appearance by the assessee or his Ld. AR in the court and there was no appearance by any representative in virtual (*on line video*) mode either, and a written submission has been filed by the assessee with a prayer to dispose of the appeal on the basis of documents contained in the written submission.

4. The said submission was accompanied by a paper book containing 202 ( two hundred and two pages ), without any proper paper book index , and the copy of the PB ( filed before the Ld. first appellate authority ) on 27<sup>th</sup> March, 2024, are also filed before us and relied upon , earmarked as **Annexures – A to Q**, and the contents of the particulars of the said paper book index does not match with the related documents relied upon in the voluminous paper book containing 202 pages .

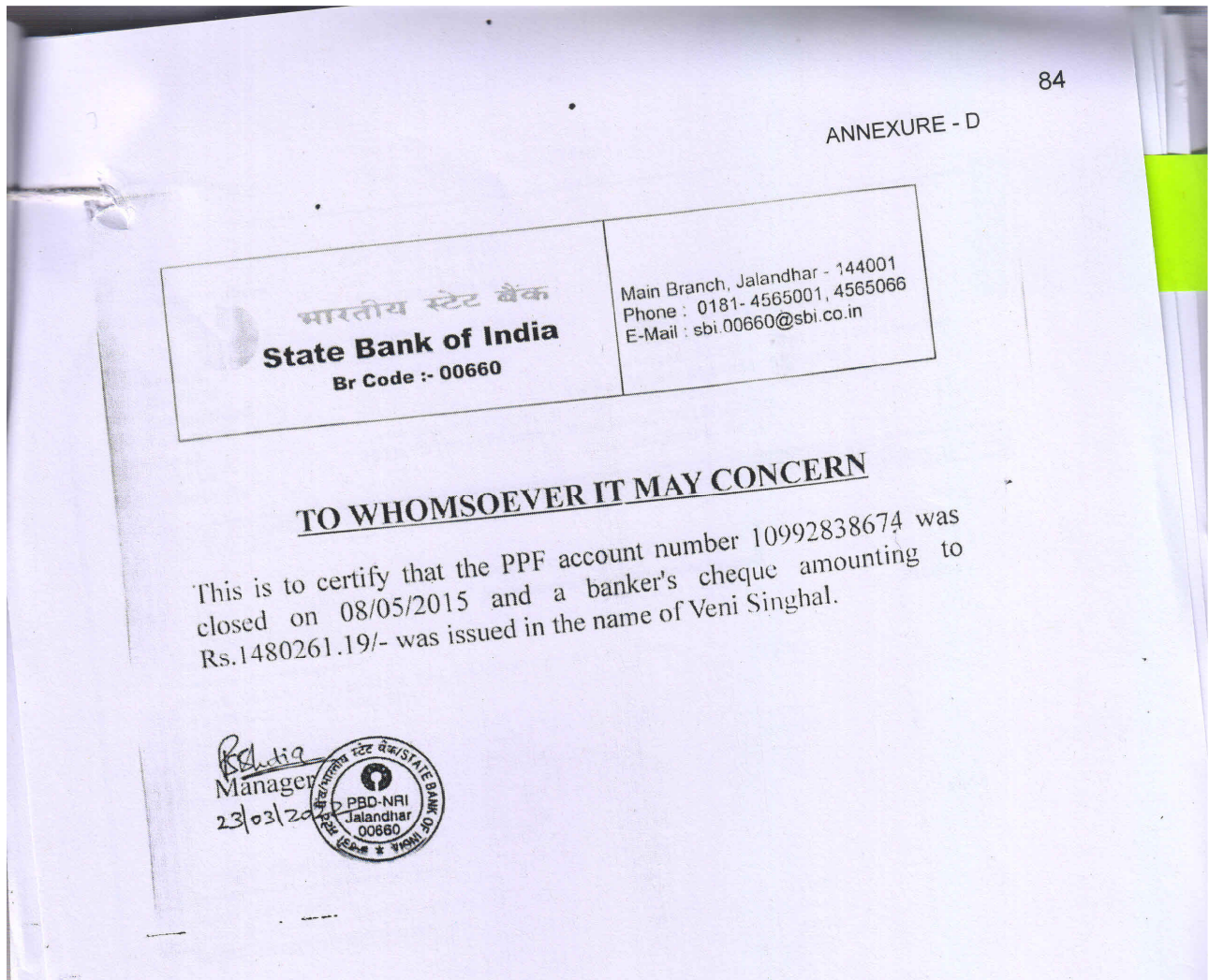
5. In absence of any representation by the assessee or his Ld. AR, there was none to explain the contents of the voluminous documents filed before us, more so, in a case where the numbering of the documents do not match.

6. The index is reproduced for easy reference:

Sr.	Particulars	Annexure
1	Copy of Form 35	A
2	Grounds of appeal and statement of facts	B
3	Copy of ITR Acknowledgement along with computation of income for AY 2016-17	C
4	Balance sheet and Profit & Loss account for year ended 31 <sup>st</sup> March 2016	D
5	Copy of scrutiny assessment order passed u/s 143(3) of the Income-tax Act, 1961 dated 15-10-2018	E
6	Copy of the notice issued u/s 142(1) dated 16-07-2018 during the scrutiny assessment proceeding	F
7	Copy of the submission filed in response to the notice issued u/s 142(1)	G
8	Copy of notice u/s 148 dated 26-03-2021 issued by AO	H
9	Copy of reasons recorded for reopening of assessment by issue of Notice u/s 143(2) dated 16-09-2021	I

OFFICE ADD: D-26/27, 4<sup>TH</sup> FLOOR, COMMERCE CENTRE, TARDEO, MUMBAI- 400034  
PHONE: (91-22) 66627288, Mob: 9870347510 Email: kilkothari@hotmail.com, kilkotharico@gmail.com

7. Copies of Annexure-D, E, F and I are also enclosed as evidence of total mismatched with the narration of the Index of the P.B.



## ANNEXURE 85E

Name : SMT. VENI SINGHAL  
 Father's Name : SH. GULSHAN RAI  
 Address : 56-MODERN COLONY  
 : JALANDHAR - 144001  
 : Punjab  
 Status : INDIVIDUAL  
 PAN/GIR : APJPA9518D  
 Range/Ward : RANGE III  
 Due Date of Filing : 31/07/2016  
 Email : itaxreturns@gmail.com, (Primary Email->)Gursewak.singh@gmail.com  
 Mobile : 9815023450, (Primary Mobile->) 9815023450  
 Adhaar No :  
 Assett. Year: 2016-2017  
 Year Ending: 31/03/2016  
 Date of Birth: 14/11/1988 (Female)  
 Residential Status: RESIDENT  
 Passport No :

Name of the Bank	IFSC CODE	Address of the branch	Type of A/C	A/C No.	ECS No
HDFC BANK LTD	HDFC0000046	G.T ROAD, JALANDHAR	SAVING	100461530012640	

## Computation of Income

Income from Salary		350000
=====		
Gross Salary Including all allowances drawn from FAIRDEAL STOCK BROKERS (G. T. ROAD) (JALANDHAR)	350000	
Taxable Salary	350000	
Income from other Sources		3804
=====		
Bank Interest	1030	
BANK INTEREST RECEIVED	1030	
Other Income(s)	2774	
COMMISSION RECEIVED	3804	
Total Income from other sources		353804
Gross Total Income		(-) 1030
Less: Deductions under chapter VI-A u/s 80TTA Saving Interest Received	1030	
Total Income		352774

## ANNEXURE - F

Mrs. VENI SINGHAL  
W/O. Sh. Sahil Singhal  
56, modern Colony  
Jalandhar.

Balance Sheet As At 31st March, 2015

<b>Capital Account:</b>					
- Balance b/f		1777342.00	PPF		1193982.00
Miscellaneous Receipts	470.00		Sh. Amit Goyal		1000000.00
Bank Interest	306.00		HDFC Bank Ltd S/f		6604.00
Short Profit From Share Trading	469207.00	469983.00	Cash in Hand		38649.00
		2247325.00			
Less Income Tax		8090.00			
		2239235.00			2239235.00

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ANNEXURE - I

Page No : 5

MS. KANLA RANI  
S/O MOTI LAL AGGARWAL  
HOUSE NUMBER 144, BHAI DITT SINGH NAGAR  
JALANDHAR 144001  
PUNJAB INDIA

JOINT HOLDERS : DALIP GUPTA

Nomination : Registered  
Statement From: 01/04/15

To: 31/03/16

Account Branch : KAPURTHALA PUNJAB  
Address : H.G.M PUBLIC SCHOOL,  
THE MALL,

City : KAPURTHALA 144601  
State : PUNJAB  
Phone no. : 98153 31111  
RTGS/NEFT IFSC : HDFC0000138 NICR: 144240102  
Email : GUP7ADALIP@YAHOO.COM  
Limit : 0.00 Currency : INR  
Cost ID : 21623382 Pr.Code : 100 Dr.Code : 138  
Account No : 01381000092279 Preferred Customer  
A/C Open Date : 21/04/2007  
Account Status : Regular

Date	Description	Account No	Debit	Credit	Balance
31/12/15	RTGS DR-VES00000042-DALIP GUPTA	HDFCRS2015123172	300,000.00		3,551.92
14/01/16	HUF-NETBANK, MUM-HDFCRS2015123172386746 FT - CR - 50200009489950 - ANAR NATH AND SONS	386746 000000000329		1,000,000.00	1,003,551.92
15/01/16	00340340005948-STP-KANLA G TO LSE	17403124401	200,000.00		803,551.92
16/01/16	RTGS DR-VES00000042-DALIP GUPTA HUF-NETBANK, MUM-HDFCRS2016011673069766	HDFCRS2016011673 069766	790,000.00		13,551.92
16/01/16	ID FUNDS TRANSFER DR-01381000051994		10,000.00		3,551.92
26/01/16	01381000092955 -TPT-DALIP HUF KANLA RANI	25120333001		110,000.00	113,551.92
26/01/16	ID FUNDS TRANSFER DR-01381000092204		100,000.00		13,551.92
27/01/16	ACH C - INDIA INFOLINE HOUSI-429355	002910150824		944.00	14,495.92
08/02/16	RTGS CR-VES00000001-DALIP GUPTA HUF-KANLA RANI-VES00000001-DALIP GUPTA	YES0RS2016020800 000259		(90,000.00)	614,495.92
08/02/16	00340340005948-STP-KANLA LSE	36933754001	600,000.00		14,495.92
12/02/16	RTGS CR-VES00000001-DALIP GUPTA HUF-KANLA RANI-VES00000001-DALIP GUPTA	YES0RS2016021200 004377		500,000.00	514,495.92
12/02/16	00340340005948-STP-KANLA LSE	41213756101	500,000.00		14,495.92
12/02/16	RTGS CR-VES00000001-DALIP GUPTA HUF-KANLA RANI-VES00000001-DALIP GUPTA	YES0RS2016022300 040012		1,000,000.00	1,014,495.92
23/02/16	00460340000479-STP-KANLA RANI FAIR DEAL	48023567501	1,000,000.00		14,495.92
29/02/16	ACH C - INDIA INFOLINE HOUSI-7040446510	003232235366		1,039.00	15,534.92
14/03/16	0034034000093801 PO MAURICE KANLA RANI	603144663318		352,593.06	368,128.78
28/03/16	PROGRAMMANAGEMENT FEE JAW-HAR16 230316		114.50		368,014.28
28/03/16	ACH C - INDIA INFOLINE HOUSI-7040463453	003505456218		881.00	368,895.28
30/03/16	FT - DR - 01381000183044 - MEELAN GUPTA	000000757521	150,000.00		218,895.28
01/04/16	CREDIT INTEREST CAPITALISED			2,180.00	221,075.28

STATEMENT SUMMARY :-  
Opening Balance  
438,260.65

Debits	Credits	Closing Bal
18,388,441.32	18,171,255.95	221,075.28
Dr Count 67	Cr Count 89	

Requesting Branch Code : 46

Generation Date : 22-Mar-22 14:14

Generated by : I1402

State account branch GST#030AACH2702H12A  
HDFC Bank GSTIN number details are available at:

8. Audited accounts are supposed to be in *Annexure- D*, but the said annexure contains a bank certificate in the PB, copy of original assessment order dated 15/10/2018 supposed to be in *Annexure – E* , but the same is computation of income, copy of recorded reasons are suppose to be in *Annexure – I* but the same is Bank statement of one Mrs. Kamala Rani, copy of SCN issued during assessment supposed to be in *Annexure – J*, but it contains *Death certificate* of Kamla Rani, and so forth and so on .

9. Brief facts that has been culled out from record and the written submission filed, are that the assessee, filed his return of income for A.Y. 2016-17 on 04/08/2016, declaring a total income of Rs. 6,87,880/-, which was selected for limited scrutiny under CASS, and after necessary enquiries and verification of some documents filed by the assessee in response to notice u/s 142(1), the assessment was completed u/s 143(3) of the Act on 15/10/2018, accepting the returned income.

10. The case has been reopened u/s 148, on the ground that there has not been any verification of unsecured loans amounting to Rs. 2,06,81,796/- received from family members and friends, and documentary evidences regarding its identity, genuineness and creditworthiness are not on record.

11. The summary of dispute are as follows:

*The Lenders who has advanced to the assessee are as follows :*

<i>NAMES of RELATIVES</i>	<i>FRESH LOANS</i>	<i>Remarks</i>
<i>Veni Singhal ( PAN APJPA9518D )</i>	<i>28,30,000.00</i>	<i>Only Salary Creditworthiness doubted</i>
<i>Kiran Singhal ( PAN ACUPS7287D)</i>	<i>2,35,85,000.00</i>	<i>Only othersource income not creditworthy</i>
<i>Kamla Rani ( PAN AKRPR7513A)</i>	<i>10,00,000.00</i>	<i>No documentray evidence</i>
<i>Dalip Gupta ( ABEPG0056D)</i>	<i>2,50,000.00</i>	<i>No documentary evidence</i>
	<i>2,76,65,000.00</i>	

12. The matter carried in appeal before the Id. first appellate authority has been disposed of by the Id. CIT(A) by observing that the reopening has not been proper as per the provisions of law. The relevant portion of the Id. CIT(A) order is reproduced below for easy reference:

*“4.2 It is observed from the assessment order that, the original Return of Income for the current year was filed by the appellant on 04.08.2016, the said return of income was selected for the scrutiny under CASS and, subsequently, the assessment was completed u/s 143(3) of the Act on 15.10.2018 by accepting returned income. Subsequently, the assessment was re-opened by the Jurisdictional Assessing Officer (JAO) for the following reason:*

*"The assessee had received unsecured loan of Rs.2,06,81,796/- from family members and friends. However, neither the ledger accounts nor the mode of receipt of loan was available in the assessment records. Only confirmation from some of the lenders was on record without any bank name or bank account number. Thus, the receipt of fresh loan of Rs.2,06,81,796/- remained unverified. Also, an amount of Rs.67,00,000/- was repaid to the lenders during the period but nothing was on record to show the mode of repayment."*

4.3 Accordingly, the assessment was re-opened u/s 147 of the Act by way of issuance of notice u/s 148 of the Act on 26.03.2021. During the course of re-assessment proceedings, the Assessing Officer has requested the appellant to prove the identity, genuineness and creditworthiness of unsecured loan received by the appellant amounting to Rs.2,06,81,796/- from various persons. In response to the same, the appellant has submitted details of the lenders such as identity, computation of return of income filed by the lender, copy of bank statement and their ledger account. The same was examined by the Assessing Officer and did not accept the submission of the appellant due to the fact that the financial capacity of the lender did not commensurate with the income earned by them. Accordingly, the Assessing Officer has not accepted creditworthiness of the lenders and added the receipt of unsecured loan amounting to Rs.2,76,65,000/- as bogus cash credit u/s 68 r.w.s. 115BBE of the Act.

4.4 During the course of appellate proceedings, the appellant has made a detailed written submission on 30.08.2023 and also on 27.03.2024 and, accordingly, submitted that re-opening of the assessment by the Assessing Officer u/s 147 of the Act is bad in law due to the fact that, the Assessing Officer has examined unsecured loan of the appellant during the course of the original assessment proceedings itself by way of issuance of notice u/s 142(1) of the Act on 16.07.2018. Accordingly, the Assessing Officer has asked various details of the creditors and the appellant has also filed relevant documents during the course of original assessment proceedings. Since, the details of the loan given by the family members and friends already submitted before the Assessing Officer and the same was dully disclosed in the balance sheet of the appellant and also all the relevant documents relevant to the said unsecured loans were produced before the Assessing Officer prior to the completion of the assessment u/s 143(3) of the Act on 15.10.2018. Hence, the re-opening of the assessment subsequently by the Assessing Officer is clearly falls as change of opinion and the same is not allowable as per the decision of Hon. Supreme Court in the case of CIT (vs) Kelvinator India Ltd. (320 ITR 561).”

13. Thereafter, he as further observed in para 4.5 and 4.6 as follows:

*“4.5 The above submission of the appellant has been carefully considered. It is an admitted fact that the Assessing Officer has completed the assessment u/s 143(3) of the Act on 15.10.2018. Subsequently, the assessment was re-opened by way of issuance of notice u/s 148 of the Act on 26.03.2021. It is further notable that, during the course of original assessment proceedings, the Assessing Officer has called for the information by way of issuance of notice u/s 142(1) of the Act on 16.07.2018, in which the Assessing Officer has asked specific questions to furnish the complete list of creditors as per the balance sheet as on 31.03.2016 mentioning their names, address, PAN and contact details of the creditors, In response to the same, the appellant has responded and submitted that, the appellant did not have any business creditors during the year, whereas, all the amounts shown as payable at the end of the year was borrowing from the family members and friends. The appellant has also submitted the complete list of the borrowings as per the balance sheet. By considering the above submission of the appellant, the Assessing Officer has concluded the assessment u/s 143(3) of the Act on 15.10.2018 by accepting the income returned by the appellant and the relevant part of the order is reproduced as under:*

*"In response to the notice u/s 142(1) of the Income-tax Act, 1861 Sh. Gursewak Singh, Advocate, AR for the assessee filed the reply and required documents details through online at ITBA portal, the assessee has furnished balance sheet, profit & loss account for the assessment year 2016-17 & 2015-16. Comparison of the balance sheet for the assessment year 2016-17 & 2015-16 reveals that there is increase in sundry creditors as against income. The assessee was asked to explain the reasons. A notice u/s 142(1) was issued. In response to this the assessee has e-furnished reply stating that there was fresh deposit from family members and confirmation was also e-furnished, which were examined and placed on record. After going through the reply of the assessee & after examination, income returned by the assessee is accepted."*

*4.6 In view of the above, I am of the considered view that, the appellant has submitted all relevant details pertaining to the receipt of loan from the family members and also furnished their confirmation at the time of original scrutiny assessment proceedings u/s 143(3) of the Act and, accordingly, disclosed all the material facts before the Assessing Officer. The Assessing Officer also completed the assessment by accepting the income returned after*

*examination of all the submission of the appellant. Thus, once the primary facts necessary for assessment are fully and truly disclosed and the Assessing Officer takes a conclusive view thereon, it is not permissible to re-open the assessment based on the very same material on the premise that it is susceptible to a difference opinion favourable to the Revenue. Hence, the re-opening of the assessment by the Assessing Officer on the pretext that, the fresh loan received by the appellant remains unverified is tantamount to change of opinion on the part of the Assessing Officer. In this regard, the reliance is also placed on the decision of Hon. Supreme Court in the case of CIT (vs) Kelvinator India Ltd. (320 ITR 561), wherein, it was held that, the re-opening of the assessment on mere change of opinion is not permissible subsequent to the amendment made to Section 147 of the Act w.e.f. 01.04.1989. Accordingly, the re-opening of the assessment by the Assessing Officer is not sustainable and the grounds of appeal i.e. grounds no. 1 & 2, filed by the appellant on this issue are hereby allowed.”*

14. Now, the revenue is in appeal against the said order on the grounds contained in the memorandum of appeal.

15. In course of hearing, the Id. DR has filed a written submissions which are reproduced as under:

*“(1) The CIT(A) is not justified in holding that reopening is a mere change of Opinion by mentioning decision of ell vs Kelvinator India ltd. SC as in the original assessment order and also as per questionnaire to notice u's 142(1) (question 6 page 57 of paper book) only list of creditors along with name address pan and contact no has been asked and only list of persons is given as per para 6 of assessee submission in response to notice u's 142(1) (page 59 of paper book) and only identity of creditor asked and only list provided by the assessee and vital issue of creditworthiness and genuineness of the transaction with sources with evidences neither asked and neither filed by the assessee before the assessing officer and hence creditworthiness and genuineness of transaction is not proved with evidences in*

*original assessment. Accordingly there is no conclusive discussion on the on the issue of genuineness and creditworthiness of the lenders in the original assessment order and no details called for by the A.O not any finding showing any genuineness and of creditworthiness with valid evidences as per law (establishment of creditworthiness genuineness) was arrived at by A.O as per law which is not mere change of opinion as pinion not based on legally proved creditworthiness and genuineness of transactions which is missing in original order.*

*(ii) Similar view has been taken by third party (Revenue Audit party) as per reasons recorded.*

*(iii) Accordingly (although this case is reopened within 4 years and provision of disclosure of fully and truly all material facts for assessment is not applicable in this case) full facts have not been asked and disclosed by assessee during the original assessment as stated and held by the CIT(A).*

***(Even otherwise reopening on the basis of information of third party Revenue audit party is valid)***

*(2) Even otherwise reopening is valid on the basis of (information) as per third party (Revenue Audit party) The reopening is otherwise valid being based on third party (Revenue audit party) also as per settled law as under.*

*(i) CIT Vs P.V.S. Beedies (P.) Ltd. [1999] 103 Taxman 294 (SC)/ [1999] 237 ITR 13 (SC)/ [1999] 155 CTR 538 (SC)- "Audit party had merely pointed out a fact which had been overlooked by Assessing Officer and this was not a case of information on a question of law. Reopening of case under section 147(b) on basis of factual information given by internal audit party was valid in law"*

***(ii) Usha International Ltd, vs Assessee on 9 March, 2015 (ITAT Delhi) -As this tangible material, in the shape of audit objection, came into existence after the completion of the original assessment and led to the initiation of reassessment, we hold this report of the internal audit party, formed a valid foundation for the initiation of reassessment proceedings, thereby pushing the case outside the ambit of 'change of opinion'.***

*The Apex court has reopening in case of internal audit party when in this case, is third party information. And reopening is more valid.*

*(3) (Moreover even otherwise reopening is fully justified as well settled law as under)*

*(a) (AIA firm vs CIT (1991) 189 ITR 285 (SC) -The expression "information" in the context in which it occurs must in our judgment, mean instruction or knowledge derived from an external source bearing on the concerning facts or particulars of as or as to law relating to a matter bean assessment Jurisdiction of the Income-tax Officer to reassess income arises if he has in consequence of information in his possession reason to believe that income chargeable to tar has escaped assessment. That information, must, it is true, have come into the possession of the income-tax Officer after the previous assessment, but even if the information be such that it could have been obtained during the previous assessment from an investigation of the materials on the record, or the facts disclosed thereby or from other enquiry or research into facts or law, but was not in fact obtained, the jurisdiction of the Income-tax Officer a not affected*

*(b) Gurera Gas cylinders (P) ltd vs CTT (2002)258 ITR 170(P&H)*

*A perusal of the reasons recorded by respondent No. 2 shows that he had applied his mind to the relevant material and formed a belief that the petitioner had not disclosed complete facts which could enable it to claim deduction under section Not and, therefore, its income had not been properly assessed. At this stage, the court can neither go into the sufficiency or adequacy of the reasons recorded by respondent No. 2 nor can it interfere with the notice simply because on an overall reappraisal of material, a different opinion may be formed.*

*(c) Reassessment is permissible even without any new material and on the basis of return.*

*SEWAK RAM vs. INCOME TAX OFFICER 236 CTR 462(P&11) 2010- No doubt, mere change of opinion by itself is not a ground for reassessment as held in the judgments relied upon on behalf of the assessee but if there are reasons to believe that tas has escaped, reassessment is permissible. Reasons can be even on the basis of particulars of the return without any new material, even if proceedings under s. 143(2) are not taken, reassessment proceedings can be taken.*

**(d) Exception to reason only when no material available with Assessing Officer.**

*(Grover Nursing Home (2000) 248 ITR 493 (P&H)- It is further held by following the case of Raymond Wollen Mills vs ITO (1999)236 ITR 34 SC, that court can invalidate a notice issued u/s 148 only if it is satisfied that no material was available before the A.O on the basis of which he could form a belief or that the said belief was not at all bonafide or was based on wage arbitrary or non-specific information. Thus exception to reason only when no material available with Assessing Officer- belief can be made on any material whatsoever*

**(e) Belief can be reached in any manner, and is not qualified by a precondition of faith and true disclosure of material facts by the assessee**

***Jawand Sons vs CIT 18 November, 2009(P&H)*** It is also held that satisfaction arrived at by any relevant Under Section 147 of the Act, after its amendment with effect from 1.4.1989, wide power has been given to the Assessing Officer even to cover the cases where the assessee had fully disclosed the material facts. The only condition for action is that the Assessing Officer should have reason to believe that the income chargeable to tax had escaped assessment. Such belief can be reached in any manner, and is not qualified by a precondition of faith and true disclosure of material facts by the assessee as contemplated in the pre amended Section 147 (a) of the Act the Act.

**(f) If satisfaction is arrived at on the basis of any relevant material, such satisfaction cannot be assailed.**

***Tilak Raj Bedi vs JCIT (2009) 319 ITR 385-P&11-*** The power of reassessment can be validly exercised if satisfaction is arrived at after following due procedure that income had escaped assessment. Such satisfaction may involve change of opinion but was not at par with 'mere change of opinion'. If satisfaction is arrived at on the basis of any relevant material, such satisfaction cannot be assailed

*Accordingly, Order of the assessing officer deserves to be confirmed and that of CIT(A) deserve to be set aside*

*2. On merits on additions of Rs 27665000/ as unexplained credits*

*(i) Addition of Rs 23585000/-(kiran jindal )- As per the assessment order there is fresh loan of 23585000 repayment was Rs 15370000) and outstanding is #115000-assessee is having income of Rs 1069850/ only as per details furnished and the creditworthiness and genuineness of the transaction is not explained of the person is not explained to give such huge amount. (page 3 of assessment order) Accordingly when person is not having sources of income, Capacity and creditworthiness to give such loan and genuineness of the transaction is not explained. Further it is seen as per copy of person in Sachdeva Stocks P. Ltd. that amount of Rs 3,44,70,218 has been received from Sachdeva Stocks P. Ltd. (paper book page 150) and also various amount received from assessee also (paper book page 151) je Rs 39.5 lac from 21-4-2015 to 26-5-2015 and hence genuineness of transactions and creditworthiness for huge transaction with lower income is not explained.*

*(ii) Similarly, addition of Rs 2830000/ in the case of Veni Singal is also rightly made as creditworthiness and genuineness of the transaction is not explained being as person having only salary income of Rs 350000/.*

*(iii) similarly, no evidence produced for creditworthiness and genuineness of transactions in respect of Kamla Rani for Rs 10 lac and amount rightly added.*

*(iv) Similarly, addition of Rs 2.5 lac made in the case of Dalip Gupta.*

*Accordingly, Order of the CIT(A) is to be set aside and that of Assessing officer deserves to be restored.”*

16. He further submitted that the ld. first appellate authority was not justified in holding that the reopening is mere change of opinion on the basis of the Hon'ble Supreme Court judgment in the case of *CIT v. Kelvinator India Ltd*, (supra) because in the instant case, in the original assessment order only the list of creditors along with the names, address, PAN and contact number has been filed and it is only the list of persons as contained in response to the notice u/s 142(1) has been submitted by

the assessee which does not prove the creditworthiness and genuineness of the transactions and mainly the sources of the funds.

17. He further submitted that there is no conclusive discussion on the issue of *genuineness* and *creditworthiness* in the original assessment order and there is neither any finding showing the same supported by valid evidences. He further submitted that in the instant case, full facts and evidences has never been filed by the assessee during original assessment proceedings.

18. He further relied on the Hon'ble Supreme Court in the case of *CIT Vs P.V.S. Beedies (P.) Ltd.* 237 ITR 13 (SC) [1999] and submitted that may be in the instant case, audit party has simply pointed out a fact which has been overlooked by the Assessing Officer and even if reopening has been carried out on the basis of the said factual information given by the internal audit party, the same is valid in law. He further submitted that in this case material in the shape of audit objection has come into existence after completion of original assessment proceedings and the report of internal audit party confirmed a valid foundation for the institution of assessment proceedings and it does not fall within the ambit of change of opinion. He further relied on the judgment of Hon'ble Court in the case of *Sewak Ram v. ITO* 236 ITR 462 [2010] (P&H HC) and submitted that if there are reasons to believe that tax has escaped assessment, reassessment is permissible because reasons can be even on the

basis of particulars of the return without any new materials even if proceedings has been taken u/s 143(2).

19. He further submitted relying on the jurisdictional High Court in the case *Jawand Sons vs CIT 18 November, 2009(P&H) (HC)* that the post amendment w.e.f. 01.04.1989, the power is vested in the AO to cover cases where assessee had fully disclosed materials facts and the only condition for action is that the AO should have reasons to believe that income chargeable to tax has escaped assessment and such belief can be read in any manner and is not qualified by a pre-condition of faith and true disclosure of material facts by the assessee as contemplated in pre amended section 147 of the Act.

20. He further relied on the decision of *Tilak Raj Bedi vs JCIT (2009) 319 ITR 385-P&H)(HC)* and submitted that if satisfaction is arrived at on the basis of any relevant materials, such satisfaction cannot be assailed and he prayed before the bench that in the instant case, the order of the Id. Assessing Officer may be restored and the order of the Id. first appellate authority may be set aside.

21. We have heard the rival submissions and considered the materials on record has already been stated by us, copies of the replies filed by the assessee before the

A.O. in original proceeding are not before us and we are also not aware of the various issues raised in notices u/s 142(1) in course of original assessment proceedings and the reply of the assessee. Even, the copy of the recorded reasons are not before us and we are not able to trace out from the voluminous paper book filed by the assessee as to what is contained in the recorded reasons and under what circumstances, the belief has been recorded, as there is no representation from the assessee to explain the various issues raised by the ld. D.R.

22. However, the ld. CIT(A) has not adjudicated the appeal on the merits of the case contained in grounds no. 3 to 7 (Form-35) and has only discussed about the legal issue of reopening of assessment.

23. As such, under the unusual circumstances prevailing, we deem it fit and proper to set aside the matter back to the files of the ld. first appellate authority to consider the various submissions raised by the ld. D.R. on the issues contained in his written submissions and the assessee is also directed to appear before the ld. first appellate authority and to explain with necessary documentary evidences, the issues and grounds raised by the ld. D.R.

24. In the result, the appeal filed by the revenue is allowed for statistical purpose.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 13.10.2025

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order