

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 872/Del/2025
(Assessment Year: 2011-12)

Tribhawan, C/o IPSO Legal H-35, 1 st Floor, Jangpura Extension, New Delhi- 110014	Vs.	ITO, Ward-2, Rewari
(Appellant)		(Respondent)
PAN: ARLPT6268P		

Assessee by :	Ms. Sumangla Saxena, Adv (VC) Shri Dishant Sethi, Adv
Revenue by:	Shri Om Prakash, Sr. DR
Date of Hearing	02/09/2025
Date of pronouncement	19/11/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.872/Del/2025 for AY 2011-12, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1055021543(1) dated 10.08.2023 against the order of assessment passed u/s 144 r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 30.11.2018 by the Assessing Officer, DCIT, Circle-16 (2), New Delhi (hereinafter referred to as 'Id. AO').

2. At the outset, we find there is delay in filing of appeal by the assessee before us by 473 days. The assessee in the condonation petition had stated that the Id CIT(A) had granted time to the assessee for filing written submission upto 14.08.2023, but proceeded to pass the appellate

order on 10.08.2023 itself dismissing the case of the assessee. The assessee preferred a rectification application u/s 154 of the Act before the Id CIT(A) and was waiting for the disposal of the said rectification application, which caused the delay in filing of appeal before this Tribunal. Since, the assessee was pursuing alternative legal remedy, in our considered opinion, we find that assessee was prevented from sufficient cause in not preferring appeal before us in time. Hence, in the interest of substantial justice, we are inclined to condone the delay and admit the appeal of the assessee for adjudication.

3. The assessee has raised additional ground, which reads as under: –

“That on the facts and circumstances of the case, the approval granted under section 151 of the Act is bereft of any reasons, mechanical and without application of mind which makes the whole proceedings without jurisdiction, bad in law, and hence required to be quashed.”

4. This additional ground goes to the root of the matter and being purely legally nature and facts relevant for its adjudication are already on record, we are inclined to admit this additional ground and take up the same first for adjudication.

5. We have heard the rival submissions and perused the materials available on record. The Id AO sought to re-open the assessment of the assessee for assessment year 2011-12 by recording the following reasons :

–

“Reasons for reopening of the assessment for A.Y. 2011-12 u/s 147 of the Act

1. As per PAN/Non PAN/AIR data available with this office, the assessee has not filed any return of income for the A.Y. 2011-12. In absence of any ITR for the year under consideration, the nature of business activity of the assessee, if any, cannot be ascertained.

2. As per the Individual Transaction Statement information available on Actionable Information Management system of the ITD, downloaded from AST, it

has been found that the assessee has deposited cash of Rs. 36,00,000/- in saving bank account maintained with Gurugaon Gramin Bank during Financial Year 2010-11 relevant to Assessment Year 2011-12

3. The data available with ITD system was analyzed in this case and on analyzing the data, it has transpired that the source of cash deposit in the bank account remains unsubstantiated especially in absence of return of income for the year under consideration.

4. To bring the above information available with department to the knowledge of assessee, a query letter was issued to the assessee on 15.02.2018 requiring thereby to furnish response in this regard. It was specifically mentioned that if no response is received, appropriate proceedings under the Income Tax Act, 1961 may be initiated. However, the assessee did not file any response to the said letter, hence, the above entries remain unexplained.

5. In absence of any response to the letter issued as well as return of income, it is clear that the assessee has deposited the cash in his bank account from his unexplained sources of income and the same is liable to be treated as unexplained income of the assessee from undisclosed sources. Furthermore, it is evident that there is a "Live Link" between the material available on record and the escaped Income, as mentioned above.

6. In this case no return of income was filed for the year under consider accordingly, in this case, no assessment was made and the only requirement to initiate proceeding u/s 147 is reason to believe which has been recorded in this case.

It is pertinent to mention here that in this case the assessee has chosen not to file return of income for the year under consideration although the total income of the assessee had exceeded the maximum amount which is not chargeable to tax as discussed above and the assessee was assessable under the Act. In view of the above, the provisions of clause (a) of Explanation 2 of section 147 are applicable to facts of the case and the assessment year under consideration is deemed to be a case where income chargeable to tax has escaped assessment.

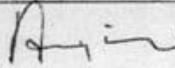
7. Keeping in view the statutory provisions, legal principles and factual matrix that the assessee has not filed any ITR for the year under consideration, the source of cash deposit remained unexplained. Therefore, I have reason to believe that the income to the extent of Rs. 36,00,000/- chargeable to tax, has escaped assessment for the assessment year 2011-12 within the meaning of section 147 of the Income Tax Act, 1961. In order to assess the above income or any other income which comes to my notice subsequently in the course of assessment proceedings u/s 147, I proceed to Initiate proceedings u/s 147 of the LT. Act, 1961 in the case for A.Y. 2011-12.

8. In this case more than four years have lapsed from the end of assessment year under consideration. Hence necessary sanction to issue notice u/s 148 of the

Act is being obtained separately from Principal Commissioner of Income Tax as per the provisions of section 151 of the Act.”

6. These reasons were forwarded to the Id PCIT, Rohtak along with proforma seeking approval in terms of Section 151 of the Act. The said proforma is reproduced herein:-

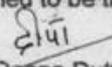
Form for recording the reason for initiating proceeding under section 147 of the Income Tax Act, 1961 for obtaining the approval of the Pr. Commissioner of Income Tax.		
1.	Name and Address of the Assessee	: TRIBHUVAN S/O UTTAM, MAJRIDUDA, SANGWARI, REWARI
2.	PAN	:
3.	Status	: Individual
4.	District/ Circle/ Range	: Ward-3, Rewari
5.	Assessment Year in respect of which it is proposed	: 2011-12
6.	The quantum of income, which has escaped assessment.	: Rs. 36,00,000/-
7.	Whether the provision of sec-147(a) or 147(b) are applicable or both the section are applicable.	: U/s 147 of the Income Tax Act.
8.	Whether the assessment is proposed to be made for the first time. If the reply is in affirmative please state. Whether any voluntary return had already been filed and If so, the date of filling the said return.	: Yes --- No
9.	If the answer to item 8 is in the negative, please state The Income originally assessed. Whether it is a case of under Asstt. At too low rate, Asstt. which has been made the subject of excessive Relief or allowing of excessive loss or depreciation.	: ----- -----
10.	Whether the provision of Section 150(1) are applicable. If the reply is in the affirmative, the relevant facts may be stated against item No.11 and it may also be brought out that the provisions of section 150(2) would not stand on the way of initiating proceedings u/s 147.	: -----
11.	Reasons in belief that income has escaped assessment.	: As per Annexure I

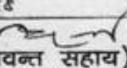

 (Anuj Kumar)
 Income Tax Officer,
 Ward -3, Rewari.

Dated: 16.03.2018

12.	Whether the Pr. Commissioner of Income Tax is satisfied on the reasons recorded by the ITO that it is a fit case for the issue of notice u/s 148	: Yes, I am satisfied that it is a fit case for issue of notice u/s 148
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Dated 22/03/18

Certified to be true copy

 Deepa Dutta
 Income Tax Officer
 Ward 2, Rewari


 प्रधान आयकर आयुक्त
 रोहतक

7. Subsequent to this, notice u/s 148 of the Act stood issued to the assessee on 27.03.2018, which was served on the assessee on 28.03.2018. On perusal of the proforma seeking approval u/s 151 of the Act, we find that the Id PCIT had merely stated that he is satisfied that this is fit case for reopening. This sort of approval granted u/s 151 of the Act was held to be approval granted without application of mind and construed as mechanical by the Hon'ble Madhya Pradesh High Court in the case of CIT Vs. S. Goyenka Lime and Chemicals Ltd reported in 56 taxmann.com 390 (MP HC). The Special Leave Petition (SLP) filed by the revenue against this decision was dismissed by the Hon'ble Supreme Court reported in 64 taxmann.com 313. Further, we find that the Hon'ble Jurisdictional High court in the case of PCIT Vs. NC Cables Ltd reported in 391 ITR 11 (Del) had also held the same, wherein, the approving authority had merely stated "approved" in the proforma while granting approval in terms of section 151 of the Act. This approval was held by the Hon'ble Jurisdictional High court to be a mechanical approval. The relevant observation of the Hon'ble Jurisdictional High Court in this regard are reproduced herein:-

"11. Section 151 of the Act clearly stipulates that the CIT (A), who is the competent authority to authorize the reassessment notice, has to apply his mind and form an opinion. The mere appending of the expression 'approved' says nothing. It is not as if the CIT (A) has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the 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 officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be disturbed.

12. The substantial questions of law framed are answered in favour of the assessee and against the Revenue. The appeal is dismissed."

8. Respectfully following the aforesaid decisions, we hold that the reopening has been made in the instant case by not taking approval u/s 151 of the Act from the competent authority in the manner known to law. Accordingly, the entire reassessment proceedings are hereby quashed. Hence, one of the legal grounds

challenging the validity of assumption of jurisdiction u/s 147 of the Act is allowed in the above mentioned terms. Since the reassessment is quashed, the other legal grounds raised by the assessee as well as the grounds raised by the assessee on merits need not be adjudicated and they are left open.

9. Since, the quantum assessment is quashed on invalid assumption of jurisdiction u/s 147 of the Act, the other appeal of the assessee in ITA No. 1413/Del/2021 challenging the levy of penalty u/s 271(1)(c) of the Act will have no legs to stand.

10. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 19/11/2025.

-Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 19/11/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi