

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER  
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.2202/Kol/2024  
(Assessment Year 2011-2012)**

**M/s Muse Advertising And Media  
Private Limited,**

6B, Bentinck Street, Kolkata - 700001

[PAN: AAGCM8950J]

.....**Appellant**

**vs.**

**The Income Tax Officer,  
Ward-10(3), Kolkata,**

Aayakar Bhawan, P-7,

Chowringhee Square,

Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by : Akkal Dudhewala, Adv.

Department represented by : Sandeep Lakra, Addl. CIT, Sr. DR

Date of concluding the hearing : 30.10.2025

Date of pronouncing the order : 20.11.2025

**ORDER**

**PER RAJESH KUMAR, ACCOUNTANT MEMBER**

The present appeal has been preferred by the assessee against the order dated 25.09.2024 passed by the Commissioner of Income-tax (Appeals), NFAC, Delhi [hereinafter referred to as the "CIT(A)"] u/s 250 of the Income Tax Act, 1961 [hereinafter referred to as the "Act"] for the AY 2011-12.

2. In Ground Nos. 1 to 4 of the appeal, the assessee has challenged the validity of the reopening of assessment u/s 147 of the Act.

3. The facts in brief are that the assessee had filed return of income for AY 2011-12 declaring total income of Rs.3,750/-. The case of the assessee was originally assessed u/s 143(3) vide order dated 25.03.2014 at total income of Rs.53,240/-. Subsequently, the case of the assessee was re-opened u/s 147 of the Act by issue of notice u/s 148 of the Act dated 27.03.2018 and the relevant portion of the reasons recorded for reopening read as under:

*“On perusal of the information, it is seen that a search and seizure operation was conducted in the case of M/s Varah Infra group of Jodhpur on 21.01.2015. The main allegation against the company was that it has routed its unaccounted money in the form of share premium to various paper companies based at Kolkata. Main Bogus entry provider in this case was Shri Jagdish Prasad Purohit and his associates namely Shri Eknath Mandavkar, Shri Raj Kumar Kanodia and family members (Shri Sushil Kumar Purohit, Shri Anil Kumar Purohit and Kailash Prasad Purohit) based at Kolkata and Mumbai. The associates were working as dummy directors in the concerns managed by Jagdish Prasad Purohit. In the statement Jagdish Prasad Purohit admitted that he was an entry provider engaged in providing accommodation entries to willing companies in the form of share capital, Share premium, bogus bill, unsecured loans etc. in lieu of commission.*

*M/s Realtime consultants Pvt. Ltd. is the concern managed by Shri Jagdish Prasad Purohit. From investigation, it was concluded that the share capital and share premium received by the company was bogus. The company had made investment in the company **Muse Advertising and Media Pvt. Ltd.** to the tune of Rs.3,97,80,000/- during the F.Y. 2010-11. From the information received it has also been concluded that the above assessee company has brought back its unaccounted money/cash into their books of account. The company has thus brought back a total of Rs.3,97,80,000 into the books of account for the F.Y. 2010-11. Further the assessee company has also made transactions with the Fine link suppliers Pvt. Ltd. which has been confirmed in the information on the basis of bank statement and further investigation revealed that the assessee company was beneficiary.*

*Since, the investment was made out of the bogus share capital and share application money received by the company and they are beneficiary of these bogus transactions. Thus, the assessee company was beneficiary of the amount of Rs. 3,97,80,000/- for the F.Y. 2010-11 relevant to the A.Y. 2011-12. From the report received, prima facie it also appears that the assessee company is beneficiary of Rs. 3,97,80,000/- of undisclosed income.*

*The enquiry revealed that the above company was not present at that address. On examination of the above facts brought on record, prima-facie it appears that the assessee company is the beneficiary of the amount of Rs. 3,97,80,000/-. In the light of the above situation, prima-facie adverse inference may be drawn that the beneficiary company has brought back their undisclosed income of Rs.*

*3,97,80,000/- into their regular books of accounts through circuitous transactions.*

*In view of the above, the undersigned has reason to believe that the income chargeable to tax of at least Rs. 3,97,80,000 has escaped assessment.”*

3. According to the recorded reasons, M/s Realtime Consultants Private Limited ('RCPL') had made investment of Rs.3,97,80,000/- in AY 2010-11, which represented undisclosed income of the assessee brought back into with their regular books of accounts through circuitous transactions. The AO is noted to have passed the assessment order u/s 147 / 143(3) of the Act, wherein he observed that the source of amount received from RCPL had already been added and assessed to tax in the hands of RCPL u/s 143(3) / 147 of the Act. The AO accordingly did not make any addition in relation to the investment received from RCPL. Instead, the AO is noted to have made addition on account of estimated income from movement of funds of Rs.20,59,400/- and also added sum of Rs.3,97,80,000/- which was received from M/s Finelink Suppliers Private Limited by way of unexplained cash credit u/s 68 of the Act.

4. Aggrieved by the action of the AO, the assessee preferred an appeal before the Ld. CIT(A) who confirmed the AO's order. Now, the assessee is in appeal before us.

5. Assailing the action of lower authorities, the Ld. AR submitted that, the AO did not make any addition on account of the investment of Rs.3,97,80,000/- received from RCPL and therefore, the ld. AO has no jurisdiction to make other additions which he came across during the course of assessment proceedings. In defense the ld AR relied on series

of decisions namely, PCIT Vs Lark Chemicals Pvt Ltd [2018] 99 taxmann.com 312 (SC); Infinity Infotech Parks Ltd. in GA No. 1736 of 2014 dated 15.11.2022 (Cal); Ranbaxy Laboratories Ltd. Vs. CIT[2011] 12 taxmann.com 74 (Delhi) and CIT Vs. Jet Airways (I) Ltd.[2021] 133 taxmann.com 233 (Bom). He further took us through the notice(s) issued by the AO's predecessor in the course of original assessment and pointed out that the AO had specifically called for the details of share capital raised by the assessee during the year and after making enquiries u/s 133(6) of the Act from these shareholder(s) including RCPL and Fine Link Suppliers Pvt Ltd, the original assessment was completed u/s 143(3) of the Act. According to the Ld. AR therefore, all the primary facts and particulars relating the purported reasons recorded for reopening was fully and truly disclosed at the time of original assessment and therefore the notice issued u/s 148 of the Act dated 27.03.2018 which was beyond four years was invalid as the condition precedent in the **proviso** to Section 147 was not satisfied. The Ld. AR relied on a series of decisions in support of this contention as well namely, PCIT v. GRD Commodities Ltd (149 taxmann.com 223) [Cal HC], Amiya Sales & Industries v. ACIT (274 ITR 25) [Cal HC], Uni VTL Precision (P.) Ltd. v. DCIT (113 taxmann.com 533) [Bom HC], Haryana Acrylic Manufacturing Co. v. CIT (175 taxmann.com 262) [Del HC], PCIT v. South Delhi Promoters Ltd. (150 taxmann.com 58) [Del HC]&Gujrat Natural Resources Ltd. v. ACIT (148 taxmann.com 476) [Guj HC] wherein on similar facts and circumstances it was held that, where there was no failure on part of the

assessee to disclose truly and fully all material facts in course of original assessment, then the concluded assessment u/s 143(3) could not be reopened simply based on information provided by investigation wing.

5. The Ld. AR also invited our attention to the letter for approval obtained by the AO u/s 151 from the Principal Commissioner of Income-tax-4, Kolkata dated 26.03.2018, which was placed at Pages 37 to 38 of paper book and showed that the PCIT had not even signed or accorded any approval and that the letter only bore the signature of the AO. He thus claimed that, the impugned reassessment ought to be declared void for want of valid sanction under Section 151 of the Act. On the other hand, the Ld. DR supported the order of lower authorities and reiterated the reasons given by the Ld. CIT(A) for rejecting the legal challenge raised by the assessee.

6. We have heard the rival contentions and perused the materials available on record and observe that the AO has re-opened the assessment u/s 147 read with section 148 of the Act after recording reasons to believe that the investment received from RCPL of Rs.3,97,80,000/- had escaped assessment. We further note that the AO was convinced after examining the evidences filed by the assessee that the source of investment had already been assessed to tax in the hands of RCPL and therefore did not make any addition while framing the re-assessment order in respect of the same which was the subject matter of the reasons recorded. The AO however made two separate additions one being estimated income of Rs.20,59,400/- and second being addition on

account of similar amount of Rs.3,97,80,000/- received from M/s Fine Link Suppliers Pvt Ltd. We note that both these items were not part of the reasons recorded u/s 148(2) of the Act. Therefore, when no addition is made for the escaped income as per the reasons recorded, then the AO has no jurisdiction to make any other addition in respect of item of income which has escaped assessment as discovered by the AO during the assessment. The case of the assessee finds support from the decision of Hon'ble jurisdictional High Court in the case of M/s. Infinity Infotech Parks Ltd. (supra) wherein the Hon'ble Calcutta High Court has held by following the decision of Hon'ble Bombay High Court in the case of CIT Vs. Jet Airways (I) Ltd. (supra) and also Hon'ble Delhi High Court decision in the case of Ranbaxy Laboratories Vs. CIT (supra) that where the income the escapement of which was the foundation for recording of reasons to believe, is not assessed or reassessed in the order u/s. 147, then it is not opened to the AO to independently assess any other income, which comes to his notice subsequently during the course of re-assessment proceedings. The similar ratio has been laid down by the Coordinate Bench in Ganesh Steel & Alloys in ITA No. 929/Kol/2023 dated 11.06.2024 following the decision of the Hon'ble Bombay High Court in the case of CIT Vs. Jet Airways (I) Ltd. (supra).

7. Similarly, we find that, in order to reopen the concluded assessment for AY 2011-12 beyond four years, the AO was required to obtain sanction from the PCIT-4, Kolkata u/s 151 of the Act. In our opinion, the PCIT has to record his reasons and satisfaction for having granted such approval.

In the present case, it is seen that, the PCIT had neither signed the approval nor recorded any reasons in the Form ITNS-10 prescribed for according approval u/s 151 of the Act. The relevant letter for approval, which was placed before us, is reproduced hereunder:-

Name and address of the assessee		M/s. Muse Advertising and Media Pvt. Ltd. Ground Floor, 6/16A, Podder Nagar, Kolkata-700 068
2	Permanent Account No	AAGCM8950J
3	Status	Pvt. Ltd Company
4	District/Circle/Range	Ward-10(3), Kolkata
5	Assessment year in respect of which it is proposed to issue notice u/s.148	A.Y. 2011-12
6	The quantum of income which has escaped assessment.	Rs. 3,97,00,000/-
7	Whether the provisions of sec. 147(a) or 147(b) are applicable or both the Sections are applicable.	Clause (c) of Explanation of sec. 147 of the I.T. Act, 61
8	Whether the assessment is proposed to be made for first time. If the reply is in the affirmative please state	No
(a)	Whether any voluntary return had already been filed; and	yes
(b)	If so, the date of filing the said return	30/09/2011
9	If the answer to item 8 is in the negative, Please state:	---
(a)	Income originally assessed	---
(b)	Whether it is a case of under Assessment, assessment at too low a rate, assessment which has been made the subject excessive relief or allowing of excessive loss or depreciation.	---
10	Whether the provisions of Sec.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 Sec.150(2) would not stand in the way of initiating proceedings u/s.147	No
11	Reasons for the believe that income has escaped Assessment.	As per separate sheet enclosed

Date: - 26.03.2018

  
(Vijay Kumar)  
I.T.O. Ward-10(3), Kol

Whether the C.I.T. / J.C.I.T. is satisfied on the reason recorded by the I.T.O. that it is a fit case for the issue of a notice u/s.148.

Date: -

Signature of Officer:  
Name: (Arvind Kumar)  
Designation: Pr.C.I.T-4, Kolkata

8. Evidently, the approval is bereft of any reason or satisfaction. Even the bare minimum requirement of the approving authority having to sign the letter is missing in the above approval order. We therefore find that the action of reopening of assessment without obtaining valid sanction u/s 151 of the Act stood fundamentally flawed.

9. For the above reasons, we set aside the notice issued u/s 147 of the Act and quash the reassessment order. Accordingly, Ground Nos. 1 to 4 are allowed.

10. In the result, the appeal of the assessee is allowed.

Order pronounced on 20.11.2025

Sd/-  
**(Pradip Kumar Choubey)**  
**Judicial Member**

Sd/-  
**(Rajesh Kumar)**  
**Accountant Member**

Dated: 20.11.2025

*AK. Sr.PS*

*Copy of the order forwarded to:*

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches