

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA Nos.4384 & 4385/Del/2025
(Assessment Years:2016-17 & 2019-20)**

Optus Developers Pvt. Ltd C/o Dr.KapilGoelAdv (G-8/5 Sector 11 Opposite SFS Apartments Rohini) Delhi - 110085	Vs.	ACIT, CC-32 New Delhi – 1110002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAACO8478P		
Appellant	..	Respondent

Appellant by :	Sh. KapilGoel, Adv.
Respondent by :	Sh. Jitender Singh, CIT, DR

Date of Hearing	02.12.2025
Date of Pronouncement	17.12.2025

ORDER

PER ANUBHAV SHARMA, JM:

Both the appeals are preferred by the assessee against the common order dated 10.06.2025 of the Ld. Commissioner of Income Tax(A)-30, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld.

‘FAA’) in Appeal Nos: CIT(A), (Delhi-30/10653/2018-19)/(Delhi-30/11618/2015-16) arising out of the common order dated 31.03.2024 passed u/s 147/144 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) by the ACIT, Cc-32, New Delhi for AYs: 2016-17 & 2019-20.

ITA No. 4384/Del/2025 (AY: 2016-17)

2. Hearing both the sides we find that the assessee now questions the notice u/s 148 dated 31.03.2023 alleging same is outcome of non application of mind and for that as a matter of fact we find that in the notice AO mentioned

“I have information that a search was initiated under section 132 of the Act in your case or in the case of the person in respect of which you are the assessable under the Act on the date 17/09/2021.

This notice is being issued after obtaining the prior approval of the PCCIT, Delhi accorded on date vide Reference No. 100000038640175”

3. Undisputedly and admittedly present case is of non-searched case (third party case) so when reopening u/s 148 of the Act is made directly on non-searched person same has different nature and has scope is to be strictly. As

evident from cursory look to notice u/s 148 it is totally without application of mind as it is stated assessee is searched and non searched person both. As the impugned assessment order passed u/s 147/144 of the Act is considered we find that the assessment is conclude referring to some search action u/s 132 on Deepak Aggarwal and Mukesh Kumar dated 17.12.2021, and there is no mention as to how this search is related to search dated 17/09/2021 referred in the impugned notice. This thus leaves no doubt in the mind of this bench that impugned notice is outcome of utter casualness and not just non-application of mind. Corresponding ground deserves to be sustained.

ITA No. 4385/Del/2025 (AY: 2019-20)

4. In this AY on 01.10.2019 regular ROI/ITR was filed u/s 139 with nil income and on 10.03.2023 the Impugned SCN u/s 148A(b) of the Act was issued to assessee with following narrations (paper book pages 15/16);

"As per information available with this office in the case of M/s Optus Developers Pvt. Ltd. and further verification from record which suggests that income chargeable to tax i.e. Rs. 1,00,00,000/- has

escaped assessment for the AY 2019-20 for the reason mentioned hereunder:

1. As per information available with department, assessee has taken loan from M/S CEAConsultants Pvt. Ltd amounting to Rs. 1,00,00,000/- during the F. Y. 2018-19.

Creditworthiness and genuineness of the transaction need to be verified."

5. Notably this show cause notice only seeks to make ‘verification’ in garb of reopening u/s 148 of the Act and nowhere talks of any search action or allegation of purported accommodation entry.

5.1 Impugned order passed u/s 148A(d) of the Act narrates as follows;

“In this case, information related to M/s Optus Developers Pvt Ltd for F.Y. 2018-19 was communicated through Insight Portal to this office which was forwarded by the office of DDIT/ADIT(Inv), Unit-1(3), Kolkata through DDIT/ADIT(Inv.), Unit 7(3) This information has been disseminated for A. Y. 2019-20 for the beneficiaries in the cases of Sh.Abhishek Kumar Munka (DOS. 17.09.2021)

In the present case, information was received from insight portal that the assessee has taken accommodation entry amounting to Rs. 1,00,00,000/- from concerns controlled and operated by Sh. Abhishek Kumar Munka, who is an established entry provider.

"On the basis of investigation/enquiry carried out and summons were issued at PAN address of the concerned proprietors and in response to summons some of the proprietor had appeared and their statement were recorded, in which they accepted that they are proprietor in names only or dummy proprietors in their proprietorship concerns. They further accepted that all the bank accounts and transaction managed and controlled by Abhishek Kumar Munka. Further, after enquiry to Mr. Abhishek Kumar Munka, he accepted that he is engaged in providing accommodation entries through various shell/paper entities. He further stated that all the proprietorship concerns are managed and controlled by him. On perusal of records the above assessee is one of the beneficiary, who has taken accommodation entry with sh. Abhishek Kumar Gupta."

6. There is apparent variance in the show cause and the issue adjudicated in order u/s 148A(d) of the Act. Further in this order u/s 148A(d) of the Act

the basis of reopening is stated to be purported search action on one Sh. Abhishek Kumar Munka with date of search as 17.09.2021 and information received from Kolkata investigation wing. The above order led to issue of impugned jurisdictional notice u/s 148 under the Act dated 30.03.2023.

7. Then if the impugned assessment order dated 31.03.2024 is considered we find that the entire subject matter is changed by referring to a search action u/s 132 on Deepak Aggarwal and Mukesh Kumar conducted on 17.12.2021. This thus leaves no doubt in the mind of this bench that impugned notice is outcome of utter casualness and not just non-application of mind. Corresponding ground deserves to be sustained.

8. As a sequel of aforesaid discussion **both the appeals are allowed** and impugned orders are quashed.

Order pronounced in the open court on 17.12.2025

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 17.12.2025
Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI