

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

**I.T.A. No.2075/Kol/2025
(Assessment Year 2011-12)**

**Mahak Doshi,
L/H of Aditya Doshi,
2A, 2nd Floor, 88A,
Sarat Bose Road,
Kolkata - 700026
[PAN: ADBPD4860H].....**Appellant****

vs.

**ITO, Ward 2(1), Kolkata,
Aayakar Bhawan, P-7,
Chowringhee Square,
Kolkata -700026..... **Respondent****

Appearances by:

Assessee represented by : Sunil Surana, AR

Department represented by : Monalisa Pal Mukherjee, Sr. DR

Date of concluding the hearing : 18.12.2025

Date of pronouncing the order : 23.12.2025

ORDER

The present appeal filed by the assessee arises from order dated 03.01.2025 passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi [hereafter "the Ld. CIT(A)].

2. At the time of hearing, the assessee pressed Ground No. 2 which is against the order of Ld. CIT(A) upholding the assessment wherein the AO made reopening the assessment on the basis of information received from the Investigation Wing without any tangible material or applying his own mind that income of the assessee has escaped assessment.

3. After hearing the rival contention and perusing the material available on record, we find that the case of the assessee was reopened

u/s 147 by issuing notice u/s 148 of the Act on 29.03.2018 which was complied with by submitting letter dated 11.04.2018 to treat the original return filed on 23.03.2012 as return filed in compliance to section 148 of the Act. It is pertinent to note that the assessee filed return of income declaring total income of Rs. 10,82,800/-. We note that the reasons recorded by the AO are very cryptic and were recorded without any application of mind. For the sake of reference, the reasons recorded are extracted below:

“Information has been received from Director General of Income Tax (Investigation) W.B. Sikkim & NER vide letter No. DGIT (Inv.)/Kol/Tech/26/SIT/2015-16/1879-1886 dated 03.07.2015. It has been informed that the assessee Shri Aditya Doshi at 88A, Sarat Bose Road, 2A, 2nd Floor, Kolkata 700026 has evaded tax by showing bogus STCL/LTCG/Business Loss of Rs. 11,65,000/- through Purchase/Sale of penny stock i.e. JMD Tele Film during the F.Y. 2010-11.

Hence, I have reason to believe that Rs. 11,65,000/- is actually undisclosed income of assessee Shri Aditya Doshi during F.Y. 2010-11 relevant to AY 2011-12.”

4. The perusal of above reasons recorded reveals that the AO has not recorded any satisfaction in the reasons to believe and relied on the information received from DGIT (Inv.) without doing any preliminary enquiry. We note that the AO has only listed in the reasons that it has been informed that Shri Aditya Doshi has evaded tax by showing bogus STCL/LTCG/Business Loss of Rs. 11,65,000/- and thereafter concluded that he has reason to believe that the said amount actually undisclosed income of the assessee. In our opinion, the reasons recorded are cryptic and there is no live link between the information received and the reasons to believe and can only a case of borrowed satisfaction and non application of mind to the information received. In our opinion, the reopening of assessment is not permissible on the basis of such reasons. We note that the AO has not even mentioned on which account, the assessee's income as escaped whether the STCL or LTCG or business loss. The reasons are very vague and cryptic and recorded with non

application of mind. In our opinion, reopening assessment has been made merely on borrowed satisfaction which rendered the notice u/s 148 of the Act as well as assessment framed to be invalid and nullity. Therefore, considering these facts and circumstances the reopening of assessment is void ab initio and invalid in the eyes of law on the ground of non application of independent application of mind to the information received from the wing as well as on barrowed satisfaction. The case of the assessee finds support from the decision in the case PCIT Vs Meenakshi Overseas Pvt Ltd (2017) 82 taxmann.com 300 (Del). In the said decision, Hon'ble Delhi High Court has held that where the reasons to believe contain not the reasons but the conclusions of the AO one after the other and there was no independent application of mind by the AO to the tangible material which forms the basis of the reasons to believe that income has escaped assessment. The Hon'ble High Court has held that the conclusions of the AO are at best a reproduction of the conclusion in the investigation report. Indeed it is a borrowed satisfaction. Besides the case of the assessee is squarely covered by the decisions of CIT vs. SFIL Stock Broking Ltd. in [2010] 325 ITR 285 (Del), GRD Commodities Ltd Vs PCIT (2023) 149 taxmann.com 223(Cal), PCIT Vs Shodiman Investment Pvt Ltd (2018) 93 taxmann.com 153 (Bom) and Sarthak Securities Co Pvt Ltd. Vs ITO (2010) 329ITR 110(Del). Accordingly, we quash the notice u/s 148 of the Act as well as assessment framed.

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

Order pronounced on 23.12.2025

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 23.12.2025
AK, Sr.P.S.

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