

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.596/RPR/2025

निर्धारण वर्ष / Assessment Year : 2017-18

Ajay Kumar Bajaj
1, Adarsh Nagar, Mowa,
Raipur-492 001 (C.G.)
PAN: AKEPB2140C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-4(1),
Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ravi Agrawal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 05.01.2026

घोषणा की तारीख / Date of Pronouncement : 06.01.2026

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 12.09.2025 for the assessment year 2017-18 as per the following grounds of appeal:

“1. That, on the facts and in law, reasons have been recorded and notice u/s 148 dt.31/03/2021 have been issued by ITO-4(1), Raipur who is not jurisdictional AO, as such, order dt.23/03/2022 is liable to be quashed, following the order of Raipur Bench of ITAT in case of Adarsh Rice Mill Vs ITO [ITA 84/RPR/2022, dated 29/11/2022] and Virendra Gir Goswami Vs. ITO [ITA 411/Rpr/2025, dt. 22/07/2025]

2. That, on the facts and law, the notice u/s.148 and the consequential order are liable to be quashed as no "material" as referred in the "reason" was supplied to the appellant, following the judgment of our Bench in case of Leeladhar Chandrakar Vs. ITO, Bhilai [ITA No. 442/Rpr/2025, dt. 07/08/2025] relying upon the judgment of Hon'ble Rajasthan High Court in case of Micro Marbles Pvt. Ltd. Vs. ITO, Ward-1 [457 ITR 569].

3. That, Ld. CIT(A) erred in confirming the addition of Rs. 6,00,000.00 made by the AO and the impugned addition is liable to be quashed.

4. That, the appellant reserves the right to add, alter or delete any ground.”

2. The Ld. Counsel for the assessee did not press the **Ground of appeal No.1**. Having heard the submissions of the Ld. Counsel, the said ground is dismissed as not pressed.

3. The legal ground assailed by the assessee vide **Ground of appeal No.2** is that the Revenue has not provided the relevant information to the assessee, based on which, the reopening of assessment was done.

4. In this regard, the Ld. Counsel for the assessee demonstrates that vide letter dated 03.03.2022 for A.Y.2017-18, the department had provided the copy of reasons for reopening wherein in the attachments firstly, in the approval u/s. 151 of the Income Tax Act, 1961 (for short 'the Act'), dated 31.03.2021, the remarks of the approving authority states that "after perusal of the information/materials received by the A.O" and further, in the annexure at Para 3. "**Analysis of information**": "on perusal of information, it is gathered that the assessee....." It is contended by the Ld. Counsel for the assessee that what are those information which were in possession of the department, based on which, the reopening was done was never shared with the assessee. There was no communication whatsoever given to the assessee to understand what are those information in possession of the Revenue, based on which, reopening of assessment has been done in the case of the assessee. In other words, the assessee contends that certain information were used by the Department to proceed against the assessee even without sharing the same for response to the assessee regarding those information which therefore, is against the principles of natural justice.

5. In this regard, the Department was provided an opportunity to furnish report from the A.O regarding the same as to whether the relevant information for reopening was communicated to the assessee or not. The Ld. Sr. DR had placed on record report dated 29.12.2025. In the said report, it is only retraction and verbatim extraction of assessment order but regarding the issue for which, such report was called for i.e. communication of information, based on which, the reassessment was done in the case of the assessee, the entire report is silent about the same. In fact, there is no whisper at all regarding any communication made by the Revenue with the assessee pertained to the reasons for reopening. Therefore, it is clear that information/material, based on which, reopening was done was never shared with the assessee nor any opportunity was provided to the assessee to respond on those issues.

6. At this juncture, I find that **ITAT, "SMC" Bench, Raipur** in the case of **Leeladhar Chandrakar Vs. ITO, Bhilai and others, ITA No. 442/RPR/2025, dated 07.08.2025** on the same legal issue has held and observed as follows:

"10. I have heard the submissions of the parties herein and carefully perused the materials available on record. That as per the "reasons to believe" that has been recorded by the A.O is the information culminating into forming satisfaction by the A.O are from two sources viz. (i) from the ICICI Bank statements through issuance of notice u/s. 133(6) of the Act by the A.O wherein it is stated that there was cash deposit of Rs.22,29,300/- by the assessee and (ii) from ITS details wherein it is noticed by the A.O that the assessee had made

cash deposits of Rs.1,08,11,930/- as against Rs.22,29,300/- . It is also evident from record that the ITS details were never provided to the assessee for his response. The Ld. Sr. DR also could not furnish any evidence to demonstrate that ITS details were duly supplied to the assessee based on which the reasons were recorded by the A.O for initiating reassessment proceedings.

11. In the present case, admittedly the ITS details which formed the basis for recording reasons for initiation of reassessment proceedings u/s.147 of the Act has not been provided to the assessee. It is settled legal position that where the materials referred to in the "reasons to believe" by the A.O was not supplied to the assessee for his response, the entire proceedings for reopening of the assessment gets vitiated as there is no reasonable opportunity provided to the assessee therefore effecting the base of principles of natural justice in income tax proceedings. In this regard, I refer to the judgment of the **Hon'ble High Court of Rajasthan, Jodhpur Bench** in the case of **Micro Marbles Private Limited Vs. Office of the Income Tax Officer (2023) 475 ITR 569 (Raj.)** wherein on the similar issue the Hon'ble High Court has held and observed as follows:

"31. Thus, in the light of the decisions of the Delhi and the Bombay High Courts, as referred to above, the non-supply of the material, especially the documents of entry in the books of M/s Sanmatri Gems Pvt. Ltd. and the statement of Deepak Jain recorded under Section 132 (4) of the Act, is sufficient to vitiate the proceedings.

32. It may be noted that the statement recorded under Section 132 (4) of the Act can be used in evidence for making the assessment only if such statement is made in context with other evidence, or material discovered during search. A statement of a person, which is not relatable to any incriminating document or material found during search and seizure operation cannot, by itself, trigger the assessment.

33. In view of the aforesaid facts and circumstances, we are of the opinion that shorn of all other technical aspects which may have been raised before us, the very fact that the material referred to in the "reasons to believe" was not supplied to the petitioner, the entire proceedings for the reopening of the assessment and leading to the consequential assessment stand vitiated in law."

12. Further, the **Hon'ble Bombay High Court** in the case of **Tata Capital Financial Services Limited Vs. Assistant Commissioner of Income Tax Circle & Ors., while deciding Writ Petition No.546/2022 vide judgment and order dated 15.02.2022**, had directed the Revenue to adhere to certain guidelines in reopening the assessment proceedings. It emphasized that the Assessing Officer shall not merely state the reasons to believe in the letter addressed to the assessee, but if the reasons make reference to any other document or a letter or a report, such document or letter or report should be enclosed to the reasons. Therefore, in view of the aforesaid decision also, it is mandatory on the part of the Assessing Officer to supply the assessee with all relevant documents, referred to in the reasons to believe and the reassessment order so that the assessee may file proper objections opposing such reopening of the assessment.

13. Considering the facts and circumstances involved in the present case and on examination of the afore-stated judicial pronouncements to the facts of the assessee's case, I hold that the reopening of assessment by the A.O u/s. 147/148 of the Act without providing materials/documents forming "reasons to believe" for such reopening, is bad in law, arbitrary and void ab initio, hence quashed.

14. Since the reassessment is quashed thereafter all other proceedings becomes non-est in the eyes of law. As the legal issue has been answered in favour of the assessee therefore the grounds on merits becomes academic only.

15. As per the aforesaid terms the grounds of appeal raised by the assessee stands allowed.

16. In the result, appeal of the assessee in ITA No.442/RPR/2025 for A.Y.2011-12 is allowed."

7. Respectfully following the aforesaid judicial pronouncements, on the same parity of reasoning even without going into the merit of the matter, on this legal premise itself, **Ground of appeal No.2** of the appeal stands allowed.

8. **Ground of appeal No.3** which is on merits stands academic only since legal issue has been answered in affirmative.

9. **Ground of appeal No.4** is general in nature, hence no adjudication is required.

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

Order pronounced in open court on 6th day of January, 2026.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 6th January, 2026.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur