

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, KOLKATA

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

**I.T.A. No. 2143/Kol/2025
(Assessment Year 2009-2010)**

Surana Bros Pvt. Ltd.,
29, Shakespeare Sarani,
Kolkata - 700017
[PAN: AAEC57192J]

..... **Appellant**
vs.

Income Tax Officer,
Ward 12(1), Kolkata,
P-7, Chowringhee Square,
Aayakar Bhawan,
Kolkata - 700069

..... **Respondent**

Appearances by:

Assessee represented by : Sunil Surana, FCA

Department represented by : S.B. Chakraborty, Addl. CIT, Sr. DR

Date of concluding the hearing : 21.01.2026

Date of pronouncing the order : 17.02.2026

ORDER

Per Rajesh Kumar, AM

The present appeal filed by the assessee arises from order dated 04.02.2025 passed u/s 250 of the Income Tax Act, 1961 (hereafter referred to as “the Act”) by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter referred to as “the Ld. CIT(A)].

2. At the outset, we observe from the appeal folder that the appeal of the assessee is barred by limitation by 142 days for which the condonation petition was filed. After going through the contents of the application, we find that the delay is attributable to bonafide and genuine reasons and

therefore, we are inclined to condone the delay and admit the appeal for adjudication.

3. The issue raised in Ground No. 1 is against the order of Ld. CIT(A) confirming reopening of assessment which was made on the basis of borrowed satisfaction without application of mind and without making any enquiry into information received from the AO and thus there was no tangible material to reopen the case.

4. The facts in brief are that the case was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 25.06.2014 which was duly served upon by the assessee. The assessee filed return of income on 03.09.2009 declaring total income at Rs. 5,07,100/-. Thereafter, the notice u/s 143(2) and 142(1) of the Act were issued along with questionnaire which were not complied with the assessee. Finally, assessment was framed u/s 144/147 vide order dated 05.10.2015 by making an addition of Rs. 2,61,50,000/- as undisclosed capital gain by the AO.

5. The Ld. CIT(A) after examining the facts of the case restored to the case to the file of AO for re-adjudication.

6. After hearing the rival submission and perusing the material available on record, we find from the perusal of reasons recorded by the AO that the AO relied on the information received from Singapore. A copy of which is available at page No. 4 of the paper book. We note that the AO has only relied upon the information received from Directorate of Investigation and Forensic Division, Competent Authority, Singapore that the Surana Bros. Pvt. Ltd. had sold 3,05,750 numbers of equity shares of face value of Rs. 10/- at a total negotiated price of Rs. 1,61,32,500/- on 17.02.20229 to M/s South Asian Regional Investment Singapore Pte. Ltd. The AO also noted that the it was off market deal and no STT was paid. The AO noted that the assessee has made capital gain of Rs. 2,61,50,000/- on the abovesaid transactions. However, in the return of income the

assessee showed only Rs. 5.00 lacs as long term capital gain and as such the capital gain of Rs. 2,61,50,000/- on sale of shares of two companies appears to have escaped assessment. We note that the AO has simply relied on the information received from the Directorate of Investigation, Forensic Division Competent Authority Singapore, without any verification on its own as apparent from the facts mentioned by the AO in the reasons recorded. We noted that during the year assessee has sold Rs. 6,11,500 equity shares for Rs. 3,22,65,000/-. We note that the assessee had purchases 10,000 equity shares at total cost of Rs. 1,00,00,000/- in the earlier assessment years which was brought forward. Thereafter, the assessee purchased remaining shares of 6,01,500/- from various parties who were holding them for consideration of Rs. 2,17,65,000/- for which payments were made by account payee cheques. Thus, the cost of all the shares were Rs. 3,17,65,000/- and the assessee has rightly computed the capital gain of Rs. 5 lacs on the on the sale of shares which was duly disclosed in the return of income. Therefore, reopening of assessment is based on the wrong facts. We note that the AO has merely acted on the borrowed satisfaction without making any enquiry into the information received from Singapore. Thus, this is a case of borrowed satisfaction without application of mind. The case of the assessee was squarely covered by the decision of PCIT Vs. Meenakshi Overseas Pvt. Ltd. (2017) 82 taxmann.com 300(Delhi). Similarly the case is also covered by the decision of Calcutta High Court in PCIT Vs Boothnath Vindtrade ITAT/297/2024 IA No. :GA/1/2024 dated 14.11.2025.

7. Accordingly, we quash the reopening of assessment on the ground of being on borrowed satisfaction and without non application of mind. The ground no. 1 is allowed.

8. The issue raised in Ground No. 2 against the order of Ld. CIT(A) confirming the reopening of assessment when the approval u/s 151 of the Act was mechanical in nature and without application of mind.

9. After hearing the rival submission and perusing the material available on record, we find that the Ld. PCIT granted approval u/s 151 in a mechanical manner without recording his satisfaction as is apparent from para no. 11, where the Ld. PCIT simply stated “approved”. In our opinion the said approval granted is invalid for the reasons that there is not application of mind by the Ld. PCIT while granting approval which is against the established norms that higher authority has to be very careful while granting the approval as is held in the case of Similarly, in case of Principal Commissioner of Income-tax-6 vs. Meenakshi Overseas (P.) Ltd. [2017] 82 taxmann.com 300 (Delhi)/[2017] 395 ITR 677 (Delhi)[26-05-2017], it has been held that the satisfaction of the commissioner is essentially jurisdictional condition for reopening after four years, such satisfaction must be based on independent application of mind to the reasons recorded and materially available. The mechanical approval without consideration of facts vitiates the proceedings. Similarly in case of Commissioner of Income-tax. vs. S. Goyanka Lime and Chemical Ltd.[2023] 453 ITR 242 (SC)[08-07-2015], it was categorically held that such approval has to be after proper verification of material and cannot be mechanical. Therefore, on this ground also, the reopening of the assessment cannot be sustained.

10. Consequently, we quash the reopening of assessment and appeal of the assessee is allowed.

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

Order pronounced on 17.02.2026

Sd/-
(Pradip Kumar Choubey)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 17.02.2026
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