



IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR 'SMC' BENCH, NAGPUR

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.748/NAG/2025

Assessment Year : 2013-14

Jagdishprasad Maheshwari C/o Surgical India, Shop No. 214,215,224,225, Sandesh Dawa Bazar, Near Haj House, Ganjipeth, Nagpur-440018, Maharashtra PAN: ACYPM9289M	Vs.	DCIT/ACIT, Circle-4, Nagpur
Appellant		Respondent

Appellant by	:	Shri Mahavir Atal (through Virtual)
Respondent by	:	Shri Surjit Kumar Saha (through virtual)
Date of hearing	:	10.03.2026
Date of pronouncement	:	17.04.2026

आदेश / ORDER

The captioned appeal at the instance of assessee pertaining to A.Y. 2013-14 is directed against the order dated 10.11.2025 framed by National Faceless Appeal Centre, Delhi (NFAC) arising out of Assessment Order dated 23.03.2022 passed u/s.147 r.w.s.144 r.w.s.144B of the Income Tax Act, 1961 (in short 'the Act').

2. I will take up the legal issue raised by the assessee challenging the validity of the assessment proceedings in light of the judgment of Hon'ble Bombay High Court in the case of *Crystal Pride Developers Vs. ACIT (2025) 172 taxmann.com 463 (Bombay)*.

3. At the outset, ld. Counsel for the assessee submitted that regular assessment u/s.143(3) of the Act for A.Y. 2013-14



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stood completed on 15.12.2015 and thereafter reopening proceedings have been carried out beyond four years that too only on the basis of the information available in the assessment record and there being no reference to any failure on the part of assessee to disclose fully and truly all material facts in the return of income as well as during the course of assessment proceedings u/s.143(3) of the Act. He therefore prayed that reassessment proceedings deserves to be quashed as null and void.

4. On the other hand, ld. DR supported the order of ld.CIT(A).

5. I have heard the rival contentions and perused the record placed before me. I note that the assessee is an individual and income of Rs.25,66,410/- declared in the return of income for A.Y. 2013-14 furnished on 09.09.2013. Return processed u/s.143(1)(a) of the Act. Thereafter, case selected for scrutiny through CASS and after valid serving of notices u/s.143(2) and 142(1) of the Act assessment proceedings u/s.143(3) of the Act have been completed and during the course of assessment proceedings assessee furnished details of sales and purchase, details of deductions, unsecured loans, details of TDS, details of bank account and various other expenses. Books of account were also produced and have been test checked. After considering the detailed submissions filed by the assessee returned income has been accepted. I further note that subsequently notice u/s.148 of the Act has been issued on 31.03.2021 which is clearly beyond four years from the end of the assessment year in question before me. Further, for carrying the reassessment proceedings, ld. Assessing Officer



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observed that in the assessment order dated 23.03.2022 that on verification of the scrutiny assessment record, it has been found that assessee made interest payment of Rs.1,80,615/- to various persons without deducting TDS and further on verification of scrutiny assessment record, assessee has claimed expenses of purchase of gold jewellery worth Rs.51,400/- and also the assessee had given money to the associations for conducting of conference. All these three issues have been referred in the reasons recorded for reopening. There is no other reference of any independent material gathered by the Assessing Officer which was not placed by the assessee during the course of assessment proceedings. All the contents of reasons recorded are taken from the books of account and assessment records which already stood examined by the Assessing Officer in the assessment proceedings u/s.143(3) of the Act. It has been consistently held that in the case of completed assessment u/s.143(3) of the Act, the reopening beyond years could only be undertaken only if there is failure on the part of the assessee to disclose fully and truly all material facts during the course of regular assessment proceedings.

6. Under the given facts and circumstances, I would like to refer to the judgment of Hon'ble Bombay High Court in the case of *Crystal Pride Developers Vs. ACIT (supra)* wherein the Hon'ble Court held as follows :

“38. We now advert to a judgment of a coordinate Bench of this Court to which one of us (G.S. Kulkarni, J.) was a member in the case of Saraswat Co-operative Bank Ltd. v. Asstt. CIT [2024] 166 taxmann.com 360/301 Taxman 90



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(Bombay)/2024 SCC. OnLine Bom 2772, operative portion of which reads thus:-

"20. The reasons recorded by the Assessing Officer nowhere state that there was failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment of that assessment year. It is needless to mention that the reasons are required to be read as they were recorded by the Assessing Officer. No substitution or deletion is permissible. No additions can be made to those reasons. No inference can be allowed to be drawn based on reasons not recorded. It is for the Assessing Officer to disclose and open his mind through reasons recorded by him. He has to speak through his reasons. It is for the Assessing Officer to reach to the conclusion as to whether there was failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for the concerned assessment year. It is for the Assessing Officer to form his opinion. It is for him to put his opinion on record in black and white. The reasons recorded should be clear and unambiguous and should not suffer from any vagueness. The reasons recorded must disclose his mind. Reasons are the manifestation of mind of the Assessing Officer. The reasons recorded should be self-explanatory and should not keep the assessee guessing for the reasons. Reasons provide link between conclusion and evidence. The reasons recorded must be based on evidence. The Assessing Officer, in the event of challenge to the reasons, must be able to justify the same based on material available on record. He must disclose in the reasons as to which fact or material was not disclosed by the assessee fully and truly necessary for assessment of that assessment year, so as to establish vital link between the reasons and evidence. That vital link is the safeguard against arbitrary reopening of the concluded assessment. The reasons recorded by the Assessing Officer cannot be supplemented by filing affidavit or making oral submission, otherwise, the reasons which were lacking in the material particulars would get supplemented, by the time the



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matter reaches to the Court, on the strength of affidavit or oral submissions advanced."

In light of the above, juxtaposing it to this case, the impugned notice dated 27 March 2021, was issued beyond the four-year period from the end of the A.Y. 2014-15 which runs contrary to the mandate as set out in the proviso to section 147 of the IT Act. The assessing officer lacked the jurisdiction to reopen the assessment proceedings, which had been already been concluded under section 143(3) of the IT Act.

39. We would at this juncture refer to a recent judgment of a co-ordinate bench of this court in the case of Imperial Consultants and Securities Ltd. v. Dy. CIT (2024) 169 taxmann.com 587/(2025) 303 Taxman 263 (Bombay)/ Writ Petition (OS) No. 1783 of 2022 where we had the occasion to consider and deal with a similar issue of reopening of assessment which was examined in light of jurisdictional requirements and settled legal position. In this context the court re-visited the judgments rendered in Andhra Bank Ltd. v. CIT [1997] 92 Taxman 534/225 ITR 447 (SC); Siemens Information System Ltd. v. Asstt. CIT [2008] 168 Taxman 209/[2007] 295 ITR 333 (Bombay)/2007 SCC OnLine Bom 1292; NYK Line (India) Ltd. v. Dy. CIT [2012] 28 taxmann.com 229/211 Taxman 185 (Mag.)/346 ITR 361 (Bombay)/2012 SCC OnLine Bom 195; ITO v. TechSpan India (P.) Ltd (2018) 92 taxmann.com 361/255 Taxman 152/404 ITR 10 (SC)/(2018) 6 SCC 685; GKN Sinter Metals Ltd v ACIT [2015] [2015] 55 taxmann.com 438/232 Taxman 386/371 ITR 225 (Bombay) (Bombay) In the said case of Imperial Consultants (supra) Justice G.S. Kulkarni speaking for the Division Bench considering of reopening of assessment beyond the period of four years, observed thus:-

Adverting to the principles of law as the aforesaid decisions lay down to the facts of the present case, we may observe that the Assessing Officer in issuing the impugned notice under Section 148 of the IT Act has clearly acted without jurisdiction. This firstly for the reason that the Assessing Officer was reopening an assessment beyond the period of four years and in such context the first proviso to Section 147 was



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strictly applicable inter alia to the effect that when the petitioner/assessee had not defaulted in fully and truly disclosing all material facts necessary for his assessment for the assessment year in question, the Assessing Officer would not have jurisdiction to reopen the concluded assessment. Secondly the reasons as furnished to the petitioner, in no manner whatsoever make out a case on the failure on the part of the petitioner to fully and truly disclose all the materials. This apart, the reasons demonstrate that the entire basis for such reopening is on the materials which was already available with the Assessing Officer, in finalizing the petitioner's assessment under Section 143(3) of the IT Act. If this be so, the Assessing Officer was acting on a complete change of opinion on the same material and/or intending to have a review of the assessment order passed by him. This was certainly not permissible applying the settled principles of law as discussed by us hereinabove. Thus, on both the counts namely on failure of the Assessing Officer in adhering to the mandate as contained in the first proviso to Section 147, and on exceeding his jurisdiction as conferred by the said provision by forming an opinion on the same material, which was available with him in the course of assessment proceedings, was wholly an impermissible exercise of jurisdiction, to issue the impugned notice. This is writ large from the plain reading of the reasons for reopening as furnished to the petitioner. We have already observed that there was substantive correspondence between the petitioner and the Assessing Officer on all materials and subject matter of reopening and all such materials had formed part of the disclosure by the petitioner. It was, hence, clearly not permissible for the Assessing Officer to reopen the assessment on the very material on which the assessment order was passed. The law does not permit such course of action and if permitted, it would not only fall foul of the mandate of the first proviso below Section 147 but also it would amount to manifest arbitrariness and illegality resulting in drastic and unwarranted consequences being brought about to unsettle



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settled/concluded assessments, which the law would certainly not recognize"

Based on the above, it is pertinent to note that the entire basis for reopening of the assessment in the given case is on the materials which were already available with the assessing officer, in finalizing the petitioner's assessment under Section 143(3) the IT Act. It is thereby evident that the assessing officer acted on a complete change of opinion on the same material available with him with an intent to review the assessment already done. This is certainly not permissible, applying the settled principles of law as discussed by us hereinabove.

40. In light of the foregoing discussion, we are unable to accept the contention urged on behalf of Mr. Sharma that the petition should not be entertained in light of availability of alternate remedy of appeal to the petitioner under the IT Act, considering that the impugned assessment order lacks jurisdiction and suffer from patent illegality. When an action is ex facie without jurisdiction and thus, illegal, it is not just, fair and/ or legal to relegate the petitioner to such alternate remedies in a situation as this, in the peculiar facts and circumstances.

41. In the above backdrop, even on merits we are unable to concur with Mr. Sharma in connection with his submission as also recorded in the affidavit in reply of the respondents. This is case where there is no fresh tangible material on the basis of which the assessing officer decided to reopen the petitioner's assessment for the impugned A.Y. 2014-15. Mr. Sharma, fell short of justifying the violation of the procedure mandated under Section 144B, of the IT Act, which for the reasons noted (supra) has an inbuilt requirement of compliance to the principles of natural justice. In the present case Mr. Sharma fairly does not dispute that the objections filed by the petitioner dated 18 February 2022 to the reasons recorded for reopening of assessment vide letter dated 2 February 2022 of the respondents, were neither separately disposed of nor has it been dealt with/adjudicated upon in the impugned assessment order. Further, from a perusal of the reply affidavit of the respondents it appears that the respondents have sought to justify their conduct in not



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following the mandate of the statutory provisions under Sections 147 and 144B of the IT Act to save such assessment from being barred by limitation. However, such justification is legally untenable in light of the clear statutory provisions and the settled law referred to (supra) and hence cannot be countenanced.

42. For the reasons set out above, the impugned assessment order fails to consider that the assessment cannot be reopened beyond a period of four years from the relevant assessment year A.Y. 2014-15 in terms of the first proviso to section 147 of the IT Act. Such action would stare in non compliance of jurisdictional requirements, and is therefore, non-est in law. We cannot be oblivious to the fact that the impugned notice dated 27 March 2021 issued under Section 148 for the A.Y. 2014-15 would transgress the statutory requirement of four years. Thus, the said notice is ex-facie without jurisdiction and has no legs to stand on.”

7. In light of above settled judicial precedents and examining the facts of the instant case, I find that the reopening proceedings in the instant case have been carried out beyond four years that too only on the basis of the information available in the assessment record and there being no reference to any failure on the part of assessee to disclose fully and truly all material facts in the return of income as well as during the course of assessment proceedings u/s.143(3) of the Act. Therefore, such re-assessment proceedings are held to be invalid and hereby quashed. Finding of Id.CIT(A) is set aside and the legal issue raised by the assessee is hereby allowed.

8. Since I have quashed the re-assessment proceedings, dealing with the grounds on merits would be merely academic.



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Therefore, the grounds raised on merits are dismissed as academic.

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

Order pronounced on this 17th day of April, 2026.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Nagpur/ दिनांक / Dated : 17th April, 2026.
Satisf

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर SMC बेंच,
नागपुर / DR, ITAT, "Nagpur SMC Bench, Nagpur
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Assistant Registrar,
आयकर अपीलीय अधिकरण, नागपुर/ ITAT, Nagpur