

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 1445/Del/2023
Assessment Year: 2012-13

Deputy Commissioner of Income Tax, Circle 4(2), New Delhi.	Vs.	M/s. CDS Infra Projects Ltd., B-94, Okhla Industrial Area, Phase-II, New Delhi-110020
PAN :AADCC0273D		
(Appellant)		(Respondent)

Cross-Objection No.148/Del/2023
(Arising out of ITA No.1445/Del/2023)
Assessment Year: 2012-13

M/s. CDS Infra Projects Ltd., B-94, Okhla Industrial Area, Phase-II, New Delhi-110020	Vs.	Deputy Commissioner of Income Tax, Circle 4(2), New Delhi.
PAN : AADCC0273D		
(Appellant)		(Respondent)

Department by	Shri Ved Jain, Adv. & Ms. Uma Upadhyay, CA
Assessee by	Shri Kailash Dan Ratnool, CIT(DR)

Date of hearing	26.08.2025
Date of pronouncement	24.11.2025

ORDER**PER VIMAL KUMAR, JUDICIAL MEMBER:**

The appeal filed by the Revenue and Cross-Objections filed by the assessee are against order dated 08.03.2023 of Learned Commissioner of Income Tax (Appeals)/National Faceless Assessment Centre (NFAC), Delhi (hereinafter referred as “the Ld. CIT(A)”) under Section 250 of the Income Tax Act, 1961 (hereinafter referred as “the Act”) arising out of Order dated 05.12.2019 of the Learned Assessing Officer/Assistant Commissioner of Income Tax, Circle 5(2), New Delhi (hereinafter referred as “the Ld. AO”) under Sections 143(3) read with section 147 of the Act for assessment year 2012-13.

2. Brief facts of the case are that the assessee company engaged in business of building complete constructions or parts thereof and civil engineering. For assessment year 2012-13, the company filed its Return of Income on 28.09.2012. The case was selected for scrutiny and the final assessment order in the case was passed on 03.03.2015 at an assessed income of Rs.9,17,64,480/-. Information was received from the ITO, Ward-1(10(4), Surat regarding bogus transaction carried out by the company to divert its income. As per the letter dated 30.05.2018 from the respective ITO, Ward-1(10(4), Surat the name of M/s. Mili Exim Pvt. Ltd.(PAN AAGCM110J) was appearing in the list of Non-filers of ITR under NMS Cycle-2 in his Ward. As per ITS details of M/s Mili Exim Pvt. Ltd., M/s. Centrodorstroy (India) Pvt. Ltd. (PAN: AADCC0273D)

had paid contract receipts of Rs.46,32,72,000/- to M/s. Mili Exim Pvt. Ltd. during assessment year 2012-13 and deducted TDS of Rs.92,65,440/- thereon. However, M/s. Mili Exim Pvt. Ltd. had not filed its ITR for assessment year 2012-13. Therefore, the case was reopened within the meaning of section 147 of Tax by the ITO, Ward-1(10(4), Surat. Several field enquiries were done and the whereabouts of the company couldn't be ascertained. Under such under assessment proceeding, statement of Shri Arvindbhai S. Parekh, the landlord was recorded by the Surat Investigation Wing wherein he categorically mentioned that he had rented his premise to M/s Mili Exim Pvt. Ltd. and further stated that no business activity was carried out from this address and a person used to come there to collect dak/tapal, once in a month. Further, information was received from Mumbai investigation Wing, wherein Sh. Naresh Mangilal Dave, who is also the director of M/s Mili Exim Pvt. Ltd., stated that he has never worked as contractor or sub-contractor in field of civil construction. He further admitted that he was asked to provide his personal documents like PAN, Driving license etc. by someone in his friend circle. This clearly means that M/s. Mili Exim Ltd. was created to provide bogus sales and expenses, purchases and other form of accommodation entries. Subsequently, notice u/s 148 of the Act was issued on 29.03.2019 and duly served upon the assessee company, after taking due statutory approvals. Notice under Section 142(1) of the Act for filing of return was issued to the assessee company on 26.08.2019. Show Cause

notices under Section 271(1)(b) of the Act was issued to assessee company on 17.09.2019 and 15.10.2019. Due to non-compliance, penalty order was also passed for non-compliance, u/s 271(1) (b). Show-cause-notice under Section 144 of the Act was sent to the assessee on 05.11.2019, as to why the assessment not be framed on the basis of material available on record. The assessee, finally, filed the return of income on 18.11.2019. For the sake of natural justice, reasons were provided to him on 20.11.2019 and was asked to file objections by 25.11.2019. The assessee filed objections on 24.11.2019, which were duly disposed of and notices under Section 142(1) and 143(2) of the Act were served upon the assessee. In response to the same, the assessee on 29.11.2019, sought more time to file detailed objections. Further, a show-cause-notice was served to the assessee on 1.12.2019 to which no reply was received. On completion of proceedings, Ld. AO vide order dated 05.12.2019 made addition of Rs.46,32,72,000/-.

3. Against order dated 05.12.2019 of Ld. AO, the assessee preferred appeal before the Ld. CIT(A) which was partly allowed.
4. Being aggrieved, the appellant/revenue preferred present appeal with following grounds:

“1. Whether Ld. CIT(A) has erred on question of law and the facts and circumstances of the case by allowing the appeal of the assessee ignoring the fact that the addition of Rs. 46,32,72,000/- against payments made to M/s Mili Exim Pvt. Ltd. was made by the assessing officer in light of the fresh information shared by ITO Ward 1(10)(4), Surat stating that M/s Mili Exim Pvt. Ltd. was identified as a non-filer and during the course of

assessment proceedings for A.Y. 2012-13 in the case of the said company, notice issued under section 148 by ITO Ward 1(10)(4), Surat returned unserved with postal remarks 'not known'. Further the registered director of the company M/s Mili Exim Pvt. Ltd. -Sh. Naresh Mangilal Dave stated in his statement recorded by DDIT Investigation Unit 111(2), Mumbai on 28.08.2014, admitting the fact that he never worked as contractor or sub-contractor in field of civil construction. He further admitted that he had never been director of any company and mentioned that two years earlier someone from his friend circle has asked him to provide his personal documents like PAN card, Election card, Aadhaar card, Driving license etc. and that same person might have misused the documents to float the bogus companies and made him director without his knowledge.

2. Whether Ld.CIT(A) has erred on question of law and the facts and circumstances of the case by partly allowing the appeal of the assessee on ground related to levy of interest u/s 234B/234C which is consequential to the above first ground of appeal.

3. The appellant craves leave for reserving the right to amend, modify, alter, add or forego any grounds(s) of appeal at any time before or during the hearing of this appeal.”

5. The respondent/assessee also preferred Cross-Objection as under:-

“1.On the facts and circumstances of the case, the re-assessment order passed by the A.O u/s. 147 r.w.s. 143(3) of the Act is null and void as the same is passed in violation of CBDT Circular No.19/1919 dated 14th August, 2019 requiring mandatory DIN.

2. The respondent craves leave to add, amend or alter any of the grounds of cross objection.”

6. Learned Authorized Representative for the Department of Revenue submitted that the reopening of assessments based on information supplied by the investigation wing can be valid under certain conditions, particularly when the Assessing Officer (AO) applies independent judgment and establishes a live nexus between the information and the belief that income has escaped

assessment. Below are key case laws that support the validity of reopening assessments under Section 147/148 of the Income Tax Act, 1961, when based on information from the investigation wing, provided the AO exercises due diligence and does not act mechanically:

1. Income-tax Officer vs. Purushottam Das Bangur [1997] 90 Taxman 541 (SC)/[1997] 224 ITR 362 (SC)/[1997] 139 CTR 32 (SC)[22-01-1997]
2. AGR Investment Ltd. vs. Additional Commissioner of Income-tax [2011] 9 taxmann.com 62 (Delhi)/[2011] 197 Taxman 177 (Delhi)/[2011] 333 ITR 146 (Delhi)/[2011] 239 CTR 378 (Delhi) [07.01.2011]
3. Phool Chand Bajrang Lal vs. Income-tax Officer [1993] 69 Taxman 627 (SC)/[1993] 203 ITR 456 (SC)/ [1993] 113 CTR 436 (SC) [13-07-1993],
4. Ess Ess Kay Engineering Co. (P) Ltd. v. CIT (2000) 247 ITR 818 (SC); &
5. Raymond Woollen Mills Ltd. vs. Income-tax Officer [1999] 236 ITR 34 (SC)/[1999] 152 CTR 418 (SC)[17-12-1997].

6.1 The demand for cross-examination of witnesses & parties from whom information is collected under Sections 131 or 133(6) based on which additions are proposed where the incriminating material had already been provided by the Courts is unjustified.

6.2 On the issue of cross examination, the Hon'ble SC in the case of Ayubkhan Noor khan Pathan v State of Maharashtra & others CIVIL APPEAL NO. 7728 OF 2012 may also be considered. The below mentioned lines of judgement are important:

"A party, who does not want to controvert the veracity of the evidence on record, or of the testimony gathered behind his back, cannot expect to succeed in any subsequent grievance raised by him, stating that no opportunity of cross-examination was provided to him, specially when the same was not requested, and there was no dispute regarding the veracity of the statement. (See also: Union of India v. P.K. Roy, AIR 1968 SC 850; and Channabasappa Basappa Happali v. State of Mysore, AIR 1972 SC 32)."

6.3 Similar is position in the cases of (a) Kisanlal Agarwalla v. Collector of Land Customs AIR 1967 & Cal. 80; & (b) PCIT vs. Swati Bajaj, Hon Kolkata HC (2022) 139 taxmann.com 352 (Kol.);

6.4 Following decisions clearly indicate that demand of cross-examination at the fag end is untenable even on principles of natural justice when limitation is taking place are coupled with evidence led by assessee to discharge the burden against the presumption of correctness of entries recorded and seized material are not correct and assessee further relied on the following judgments:

- i). Indian & Eastern Newspaper Society v. CIT 119 ITR 996 (SC);
- ii) Addl. CIT Vs. Jay Engg. Works Ltd. 113 ITR 389 (Del.);
- iii) S.S. Gadgil v. Lal & Co. 53 ITR 231 (SC);
- iv) Dhakeswari Cotton Mills Ltd. v. CIT 26 ITR 775 (SC);
- v) Nokia India (P) Ltd. v. DDIT 59 taxmann.com 212, ITAT Delhi;
- vi) Hersh Win Chadha v DCIT 135 TTJ 513 ITAT Delhi;
- vii) GTC Industries Ltd. v. ACIT 65 ITD 380, ITAT Mumbai;
- ix) Smt. Kusum Lata Thakral v CIT, 150 ITR 714 P & H High Court;
- x) M/s. Meghna Towers Pvt. Ltd. 87 taxmann.com 329 ITAT Delhi;
- xi) M/s. Public Investment And Finance Ltd. vs. ITO 2017-TOIL-238-SC-IT;

6.5 Recently, a number of assessment orders have been annulled and decided against the Revenue by the Tribunals by placing reliance on the judgement of the Supreme Court in the case of Andaman Timber Industries Civil Appeal No. 4228 of 2006 order dated 02.09.2015 without appreciating the facts and circumstances of the case.

7. Learned Authorized Representative for the respondent/assessee contended that Reopening of the assessment beyond a period of four years is barred by limitation when original assessment had been completed u/s 143(3) and there was no failure on part of the assessee to fully and truly disclose the material facts of the case.

The first proviso to section 147 of the Act provides that in order to initiate proceedings u/s 147 of the Act, more particularly when scrutiny assessment was also made u/s 143(3) of the Act in the case of the assessee, the time limit of 4 years is to be strictly adhered to unless the case falls under any of the following exclusionary provisions:

- a. ITR was not filed by the assessee u/s 139, or
- b. Response to notice u/s 142(1) was not submitted, or
- c. Response to notice u/s 148 was not submitted, or
- d. Full & True disclosure of all material facts which were necessary for scrutiny assessment was not made.

7.1 In present case, it is an undisputed fact that the Return of Income was filed by the Assessee and notices issued u/s 142(1) and 148 were duly adhered during the course of original as well as reassessment proceedings. Thus, the first

three exclusionary provisions for falling out of the time limit of four years from the end of the assessment year for issuance of notice u/s 148 stand unfulfilled.

7.2 With regards to Full & True disclosure of all material facts which were necessary for scrutiny assessment, there is no finding by the AO in the reasons recorded for forming a belief of income escaping assessment that what was the failure on the assessee's part in disclosing or submitting complete and true particulars. There is no mention of any specific detail which was called for by the AO during Original Assessment proceedings and was not complied with assessee. The same is evident from para 7, 8 and 9 of the reasons recorded placed at PB Pg 87D-87E

7.3 Detailed verification was conducted by the AO during the course of original assessment proceedings evident from the documents placed **at PB Pg 39-61** that transactions undertaken with M/s. Milli Exim Pvt. Ltd. had already been duly examined by the Ld. AO during the course of assessment proceedings.

7.4 Ld AO has neither identified any suppression nor mentioned any failure by the assessee to disclose material facts, Ld. AO totally remains silent on this part and merely relied on the information received from ITO Surat.

7.5 It has not been pointed out in the reasons recorded by the AO that which fact or material was not fully and truly disclosed by the assessee during the

course of assessment proceedings. Mere mentioning of the fact that assessee has not fully and truly disclosed all the material facts of the case is not sufficient.

7.6 Reliance is placed on following judicial pronouncements:

- Hindustan Lever Ltd. versus RB Wadkar, Assistant Commissioner of Income Tax and Others (no. 1), 2004 (2) TMI 41-Bombay High Court, dated, February 25, 2004.
- Oracle India Private Limited versus Assistant Commissioner of Income Tax, Circle 13 (1), New delhi, 2017 (7) TMI 967-Delhi High Court, Dated, July 26, 2017.
- Haryana acrylic Manufacturing Company versus Commissioner of Income-Tax9IV and Another, 2008 (11) TMI 2-Delhi High Court.
- Standard Industries Limited versus Deputy Commissioner of Income Tax, Circle-3 (3) (1), Mumbai, Pr. Commissioner of Income-Tax, Mumbai-3, Additional Joint/Deputy/Assistant Commissioner of Income-Tax/Income Tax Officer, National Faceless Assessment Centre, Delhi., Union of India, 2023 (2) TMI 719-Bombay High Court, Dated, 15-2-2023.
- Ananta Landmark Pvt. Ltd. versus Deputy Commissioner of Income Tax Central circle-5(3), Mumbai, Pr. Commissioner of Income Tax, Mumbai, Union of India through the Secretary, Department of Revenue, Ministry of Finance, 2021 (10) TMI 71-Bombay High Court, Dated, 14-9-2021.
- Tao Publishing (P) Ltd. versus DCIT, Circle-7, Pune, 2015 (1) TMI 1162-Bombay High Court.
- Allied Strips Limited versus ACIT, Central Circle-15, 2016 (5) TMI 580-Delhi High Court.

*ITA No. 1445/Del.2023 &
CO No.148/Del/2023*

- Infosys Ltd. versus ACIT, PCIT, 2023 (8) TMI 87-Karnataka High Court.
- Milton Plastics Limited, versus Mudit Nagpal, DCIT, Circle-2(2), Mumbai, A. Selvaraj, CIT 2023 (3) TMI 565-Bombay High Court.
- M/s. Seema Holding Pvt. Ltd. versus ITO, ACIT, Central Circle-1, Guwahati,
- PCIT, Central-11 versus DSC Ltd., 2023 (7) TMI 865-Delhi High Court, Dated, 18-7-2023
- Noida Toll Bridge Co. Pvt Ltd. versus ACIT Circle-18 (2), Noida and (vice-versa), 2023 (8) TMI 1510-ITAT Delhi, Dated:-8-8-2023.

7.7 When there is no fresh tangible due material distinct from what was very much available, the re-opening in such circumstance is impermissible and Assessment proceedings cannot be initiated on basis of mere change in opinion

7.8 The assessee has already been scrutinized under section 143(3) of the act wherein the Id. AO has assessed the income of the assessee at Rs.9,17,64,480/- by making disallowance of Rs.7,60,000/- on account of un-vouched expenses **(Assessment order dated 03.03.2015 passed u/s 143(3) is attached at PB pg. no. 62-66).**

7.9 During the original assessment proceedings, the transactions with M/s.Milli Exim Pvt. Ltd. was also duly verified by the AO as evident from the query raised by the AO in its show cause notice dated 31.12.2014 **(PB Pg. 36-**

38) with respect to the transaction with MEPL and sought the various information of the transaction undertaken. In response to the query of AO assessee vide his reply placed at **PB Pg 39-42** duly explained the transaction undertaken with MEPL a and furnished the following documents which were duly accepted by the Assessing Officer:

- Detailed note on transaction with M/s Mili Exim Pvt Ltd. at **PB Pg 43 to 45 with true typed copy at PB 45A to 45C**
- Minutes of the meeting dated 01.07.2010 at PB Pg 46 to 47
- Tri-party agreement dated 08.07.2010 between the assessee, M/s Reliance Infrastructure Ltd and M/s.Milli Exim Pvt. Ltd. at PB Pg 48-51.
- Bank statement showing the payments made to M/s Milli Exim Pvt. Ltd. at PB Pg 52-58
- Invoices raised by the assessee to Mis Reliance Infrastructure Ltd at PB Pg 59-61

7.10 So, detailed verification had already been conducted in the case of the assessee during the course of scrutiny proceedings u/s 143(3) of the Act. The AO in his assessment order u/s 143(3) of the Act dated 03.03.2015 in para 1 at page no. 1 stated that "In response to the statutory notices Shri R.K. Singhal Advocate/AR appeared from time to time and filed necessary details which are placed on record. Thus, the initiation of proceedings u/s 147 constitutes change of opinion which is not permissible under the law. Reliance can be placed on the following judgements:-

*ITA No. 1445/Del.2023 &
CO No.148/Del/2023*

- a. Commissioner of income-tax, Delhi v. Kelvinator of India Ltd. [2010] 187 Taxman 312 (SC), Dated-18-01-2010, Supreme Court.
- b. Dy. CIT, Delhi. versus Arm Overseas Pvt. Ltd. and (vice-versa), 2025 (3) TMI 89-ITAT Delhi, dated:-28-2-2025.
- c. Johar Hasan Zojwalla v. ACIT, Circle-3, Mumbai, 2024 (10) TMI 471-ITAT Mumbai, Dated,16-9-2024
- d. Pradeep Kumar Agrawal v. ITO, Ward- Dhamtari, 2024 (11) TMI 228-ITAT Raipur, dated:-21-10-2024.
- e. Sh. Pardeep Kapoor, v. ITO, Ward-1 (2), Jammu, 2024 (6) TMI 565- ITAT Amritsar, Dated:-7-5-2024
- f. Ashok Kumar Kolla v. DCIT, Circle-6(1), Hyderabad, 2024 (11) TMI 770 ITAT Hyderabad, Dated: 14-11-2024.

7.11 Reopening of assessment proceedings u/s 147 is without application of mind, solely on the basis of information received is bad in law & liable to quashed. Reasons are at best is the reproduction of report of the investigation wing. The Ld. AO alleged that the transactions between the assessee and M/s Milli Exim Pvt. Ltd were bogus, relying entirely on information received from the ITO Ward 1(10(4)), Surat. The perusal of the reasons recorded clearly reveals that the Ld. AO did not apply his own mind and merely adopted the findings of the Income Tax Officer, Surat. The information received from the ITO Surat formed the sole basis for reopening the case, with no evidence of any independent inquiry by the Ld. AO. During the course of original assessment

proceedings, assessee in response to the show cause notice dated 31.12.2014 submitted Acknowledgement of income-tax return along with computation of income, audited financial statements, tax audit report, detail note on transaction with M/s. Milli Exim Pvt. Ltd., Tri-party agreement between assessee. M/s Reliance Infrastructure Ltd and M/s Milli Exim Pvt. Ltd. Bank A/c statement, Invoices raised by the assessee to M/s Reliance Infrastructure Ltd. The assessee has consistently submitted that the payment of Rs. 46,32,72,000/- was received by the assessee from M/s. Reliance Infrastructure Ltd and the same amount has been paid to M/s. MEPL on back-to-back basis transaction. Therefore, the said amount of 46.32,72,000/- cannot be considered as income of the assessee by any stretch of imagination, which is evident from the bank statements already submitted during the course of original assessment proceedings. All the details submitted were duly accepted by the AO and no adverse inference was drawn in respect of the same. Despite this, the AO has formed his belief on the wrong facts that assessee company was used such entity to book bogus expenses, merely based on the information received from ITO Ward, Surat. Ld. A.O. has re-opened the assessment without considering the material available on record and without understanding the real nature of the transaction with MEPL and without independently applying her mind, on the financial implication of the transaction between M/s.Mili, RIL & the assessee. M/s. Mili Exim Pvt. Ltd. was appointed by M/s RIL and payment of Rs.46,32,72,000/- reimburse to them on

behalf of RIL after obtaining approval from RIL and the assessee role is to merely supervise and provide technical assistance in respect of the utility contract for which it has received consideration of Rs. 1,75,72,000/- which is duly recorded in its books of account. The AO relied entirely on information from the ITO Ward, Surat to form the "reason to believe," without conducting any independent examination of the facts and documents brought on records during the course of original proceedings, did not validate or substantiate the information received. The reasons recorded appear to have been done merely as a procedural formality, disregarding the true intent of the law. In the given case under consideration, Ld. AO has solely relied on the findings of the ITO Surat in respect of proceedings u/s 147 of the Act. It is a settled principle that the information received from the other Income Tax Officer cannot be said to tangible material per se without any further enquiry being undertaken by the AO to establish the link between the tangible material and formation of reason to believe that income had escaped assessment. Reliance is placed on the following judicial pronouncements wherein it has been held that in the absence of independent application of mind by the Ld. AO, assessment cannot be reopened on the basis of report of the Investigation Wing.

- a. Principal Commissioner of Income Tax-6 versus Meenakshi Overseas Pvt. Ltd. 2017 (5) TMI 1428-Delhi High Court, Dated, May 26, 2017
- b. PCIT v. RMG Polyvinyl (1) Ltd., 2017 (7) TMI 371- Hon'ble Delhi High Court, dated, July 7, 2017

*ITA No. 1445/Del.2023 &
CO No.148/Del/2023*

- c. M/s. Savita Holdings Pvt. Ltd. versus ITO, Ward-22(4), New Delhi., 2021 (3) TMI 833- ITAT Delhi, dated, March 19, 2021
- d. SSG Mercantile Pvt. Ltd. versus ACIT, Circle-24(1), New Delhi, 2021 (1) TMI 949 – ITAT, Delhi, Dated, January 14, 2021.
- e. Well Trans Logistics India Pvt. Ltd. v. ACIT & Ors., 2024 (9) TMI 156, Hon'ble Delhi High Court, dated, 2-9-2024
- f. Natraj Products P. Ltd. v. ITO, Ward-17 (4), New Delhi, 2024 (10) TMI 86-ITAT, delhi, dated, 30-9-2024
- g. Smt. Sarla Devi Nigam v. ITO-1 (1), Agra, 2018 (5) TMI 1540-ITAT, Agra, dated, 23-5-2018

7.12 Approval under section 151 of the Act is mechanical-Notice issued u/s. 148 without obtaining prior valid approval u/s. 151 of the Act will be considered as invalid and liable to be quashed. Ld. AO has initiated the reassessment proceedings against the assessee u/s 147 of the act on the basis of information received from ITO Ward, Surat. It is to be highlighted that the reopening of assessment in the case of the assessee is not tenable in the eye of the law as no prior valid approval has been received u/s 151 of the Act. It is settled law that while granting approval, the authority must analyze and explain why the case should be reopened. A mere notation of "approved" or "Yes, I am satisfied does not fulfil the requirement under Section 151. Independent application of mind is mandatory for granting such approval. In the present case, the PCIT has stated, "I am satisfied that this is a fit case for issue of notice u/s 148 of I.T. Act 1961" **(PB Pg 87B)**. This response is mechanical in nature, showing that the approval was given without understanding the nature of the information or the basis for

believing the income is taxable and even not clarified how he was satisfied that the case qualifies for action u/s 147. Reliance in this regard is being placed on the following judicial pronouncements wherein it has been held that mechanical way of granting sanction would render the notice issued under section 148 invalid.

- i. Delhi High Court in the case of CAPITAL BROADWAYS PVT. LTD. V. ITO WARD 5 (3) DELHI, 2024 (10) TMI 311, Dated:-3-10-2024 it is held as under. –

"20. As explained in the above cases, mere repeating of the words of the statute, mere rubber stamping of the letter seeking sanction or using similar words like "Yes, I am satisfied" will not satisfy the requirement of law. Hence, we are of the firm view that PCIT has failed to satisfactorily record his concurrence. The mere use of expression "Yes, I am satisfied" cannot be considered to be a valid approval as the same does not reflect an independent application of mind. The grant of approval in such manner is thus flawed in law."

- ii. MADHYA PRADESH HIGH COURT IN THE CASE OF CIT, JABALPUR V. M/S. GOYANKA LIME AND CHEMICALS LTD., DATED:-14-10-2014,

iii. THE VIEW IN THE ABOVE JUDGMENT HAS BEEN UPHELD BY THE HON'BLE SUPREME COURT, IN THE CASE CIT, JABALPUR V. M/S. GOYANKA LIME AND CHEMICALS LTD, DATED:-8-7-2015

- iv. DELHI HIGH COURT IN THE CASE OF PCIT-7 V. PIONEER TOWN PLANNERS PVT. LTD, 2024 (3) TMI 828, DATED: 20-2-2024

- v. ITAT DELHI IN THE CASE OF RAJAN RAJESH KUMAR V. ACIT-DCIT CENTRAL CIRCLE, DEHRADUN 2024 (2) TMI 541, DATED:-8-2-2024

vi.ITAT DELHI IN THE CASE OF DCIT CENTRAL CIRCLE-19
NEW DELHI V. SANDEEP BAJAJ, 2024 (6) TMI 22, DATED:-29-
5-2024

7.13 Ld. CIT(A) on basis of paras 45 to 51, considered facts and deleted the addition on merits and legal grounds.

7.14 The Assessment order passed by the AO is invalid and non-est in the absence of computer-generated DIN mentioned in the body of the said order as the same is in violation of **CBDT Circular No. 19/2019 dated 14.08.2019**. Reliance can be placed on the following judicial pronouncements wherein it is held that absence of DIN, the assessment order will be null and void and liable to be quashed:

- (a) M/S Brandix Mauritius Holdings Ltd. v. DCIT Circle-1(1)(2), 2022 (11) TMI 34-ITAT Delhi, Dated -19-9-2022;
- (b) SHEENA JAIN V. DCIT, CENTRAL CIRCLE-5, DELHI, 2024 (2) TMI 628-ITAT DELHI, Dated:-3-1-2024; &
- (c) M/S Bilasa & Sons Pvt Ltd V. ACIT, Central Circle-14, 2023 (12) TMI 874-ITAT DELHI, Dated: 31.11.2023.”

8. On examination of record in light of above said rival contentions, it is crystal clear that the assessee company had filed return of income on 28.09.2012. Copy of acknowledgement of ITR with computation of income is at page nos. 1 to 4 of the paper books. The case was selected for scrutiny assessment during scrutiny proceedings under Section 143(3) of the Act. The assessee submitted its ITR acknowledgement, computation of income and

audited financial statements. Ld. AO issued show-cause-notice dated 31.12.2014 at page nos. 36 to 38 of the paper books. Specific queries regarding transactions entered with M/s. Mili Exim Pvt. Ltd. is at page no. 37 of the paper books. Detailed note on transaction with M/s. Mili Exim Pvt. Ltd. is at page nos. 43 to 45 of the paper books. Minutes of Meetings dated 01.07.2010 is at page nos. 46 and 47 of paper books. Tripartite agreement dated 08.07.2010 between assessee, M/s. Reliance Infrastructure Ltd. and M/s. Mili Exim Pvt. Ltd. at pages 48 to 51 of the paper books. Bank statement showing payment to M/s. Mili Exim Pvt. Ltd. is at pages 52 to 58 of the paper books. In respect of reliance raised by the assessee to M/s. Reliance Infrastructure Ltd. is at page nos. 59 to 61 of the paper books. After examination, Ld. AO completed scrutiny assessment proceeding vide order dated 03.03.2015 without any adverse inference in respect of transaction with M/s. Mili Exim Pvt. Ltd. Copy of assessment order dated 03.03.2015 by Ld. AO under Section 143(3) of the Act is at page nos. 62 to 66 of the paper books.

8.1 Ld. AO vide order dated 03.03.2015 under Section 143(3) has assessed the income of the assessee at Rs.9,17,64,480/- by making disallowance of Rs.7,60,000/- on account of un-vouched expenses. During the original assessment proceedings, the transactions with M/s.Milli Exim Pvt. Ltd. was also duly verified by the AO as evident from the query raised by the AO in its show cause notice dated 31.12.2014 (**PB Pg. 36-38**) with respect to the transaction

with MEPL and sought the various information of the transaction undertaken. In response to the query of AO assessee vide his reply placed at **PB Pg 39-42** duly explained the transaction undertaken with MEPL.

8.2 The AO in his assessment order u/s 143(3) of the Act dated 03.03.2015 in para 1 at page no. 1 stated that "In response to the statutory notices Shri R.K. Singhal Advocate/AR appeared from time to time and filed necessary details which are placed on record. Thus, the initiation of proceedings u/s 147 constitutes change of opinion which is not permissible under the law. Reliance can be placed on judgements Commissioner of Income-Tax, Delhi v. Kelvinator of India Ltd. [2010] 187 Taxman 312 (SC), Dated-18-01-2010, Supreme Court.

8.3 Reopening of assessment proceedings u/s 147 is without application of mind, solely on the basis of information received is bad in law & liable to quashed. Reasons are at best is the reproduction of report of the investigation wing. The Ld. AO alleged that the transactions between the assessee and M/s Milli Exim Pvt. Ltd were bogus, relying entirely on information received from the ITO Ward 1(10(4)), Surat. It is a settled principle that the information received from the other Income Tax Officer cannot be said to tangible material per se without any further enquiry being undertaken by the AO to establish the link between the tangible material and formation of reason to believe that income had escaped assessment. Reliance is placed on the following judicial pronouncements wherein it has been held that in the absence of independent

application of mind by the Ld. AO, assessment cannot be reopened on the basis of report of the Investigation Wing.

- a. PRINCIPAL COMMISSIONER OF INCOME TAX-6 VERSUS MEENAKSHI OVERSEAS PVT. LTD. 2017 (5) TMI 1428-DELHI HIGH COURT, Dated: - May 26, 2017
- b. PCIT V. RMG POLYVINYL (1) LTD., 2017 (7) TMI 371-DELHI HIGH COURT, DATED-JULY 7, 2017
- c. M/S SAVITA HOLDINGS PVT. LTD. VERSUS ITO WARD 22 (4) NEW DELHI., 2021 (3) TMI 833-ITAT DELHI, DATED MARCH 19, 2021
- d. SSG MERCANTILE PVT. LTD. VERSUS ACIT, CIRCLE 24(1), NEW DELHI, 2021 (1) TMI 949 – Income Tax Appellate Tribunal DELHI, DATED JANUARY 14, 2021.
- e. WELL TRANS LOGISTICS INDIA PVT. LTD. V. ACIT& ORS., 2024 (9) TMI 156, DELHI HIGH COURT, DATED:-2-9-2024
- f. NATRAJ PRODUCTS P. LTD. V. ITO, WARD-17 (4) NEW DELHI, 2024 (10) TMI 86-Income Tax Appellate Tribunal DELHI, DATED:-30-9-2024

8.4 Approval under section 151 of the Act is mechanical-Notice issued u/s. 148 without obtaining prior valid approval u/s. 151 of the Act will be considered as invalid and liable to be quashed. In the present case, the PCIT has stated, "I am satisfied that this is a fit case for issue of notice u/s 148 of I.T. Act 1961" **(PB Pg 87B)**. This response is mechanical in nature, showing that the approval was given without understanding the nature of the information or the basis for believing the income is taxable and even not clarified how he was satisfied that the case qualifies for action u/s 147. Hon'ble Delhi High Court in the case of

Capital Broadways Pvt. Ltd. v. ITO, Ward-5(3), Delhi, 2024 (10) TMI 311,

Dated:-3-10-2024 has held as under. –

"20. As explained in the above cases, mere repeating of the words of the statute, mere rubber stamping of the letter seeking sanction or using similar words like "Yes, I am satisfied" will not satisfy the requirement of law. Hence, we are of the firm view that PCIT has failed to satisfactorily record his concurrence. The mere use of expression "Yes, I am satisfied" cannot be considered to be a valid approval as the same does not reflect an independent application of mind. The grant of approval in such manner is thus flawed in law."

In view of above facts and well settled legal principles, the granting of sanction order, the notice under Section 148 of the Act are held as invalid.

9. In light of above material facts, ground of appeal no.1 of Revenue being de void of merit is rejected. Ground of appeal nos. 2 & 3 of Revenue and Cross-objection nos. 1 and 2 by the assessee being consequential require no adjudication.

10. In the result, the appeal of Revenue and cross-objection of Assessee are dismissed.

Order pronounced in the open court on 24th November, 2025.

Sd/-

**(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 24th November, 2025.
Mohan Lal

*ITA No. 1445/Del.2023 &
CO No.148/Del/2023*

Copy forwarded to:

1. Applicant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi