IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "C" : DELHI
[THROUGH VIDEO CONFERENCING]

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA.No.3068/Del./2017
Assessment Year 2008-2009

Shri Jeet Singh, R/o.H.No.432, Chainpura, Vill Kadarpur (Near Govt. High School) Gurgaon. PAN BDFPS3837Q	vs.	The Income Tax Officer, Ward-2(1), Gurgaon.
(Appellant)		(Respondent)

For Assessee :	Shri Mahavir Singh, C.A.
For Revenue :	Ms. Anima, Sr. D.R.

Date of Hearing :	17.06.2021
Date of Pronouncement :	24.06.2021

ORDER

PER R.K. PANDA, A.M.

This appeal filed by the Assessee is directed against the Order dated 22.03.2017 of the Ld. CIT(A)-1, Gurgaon, relevant to the A.Y. 2008-2009.

2. Facts of the case, in brief, are that the assessee is an individual and filed his return of income declaring total income of Rs.12,78,494/-. Subsequently, on the basis of the information received from the Deputy Director of Income Tax (Inv.), Unit-(1), Gurgaon, vide letter No.1796 Dated 19.03.2014 that the assessee has purchased insurance policy for Rs.1.05 crores and surrendered the policy within 03 years, the A.O. after recording the following reasons reopened the assessment under section 147 of the I.T. Act.

"Annexure

Reasons for reopening the case u/s 147 of the Income Tax Act, 1961 Act,

Name & Address of the Assessee	*Sh Jeet Singh, H.No.432, Chainpura, Vill Kadarpur, Near Govt. High School, Gurgaon.*
A.Y.	*2008-09*
PAN	--
STATUS	--
DATE	*27.3.2014*

Reasons :

As per information available with the department received as STR by the DDIT (Investigation) Unit-1, Gurgaon, the assesses has purchased insurance policy for Rs.1.684 crores and surrendered the policy within three years. Therefore, I have reasons to believe that the income of the assessee to the tune of Rs.1.684 Crores has escaped assessment.

Sd/-Sanjay Kumar
Income Tax Officer,
Ward-2(2), Gurgaon."

2.1. Accordingly, he issued notice under section 148 of the I.T. Act, 1961. In response to the notice under section 148, the assessee submitted that the return already filed may be treated as return filed in response to notice under section 148 of the I.T. Act, 1961.

2.2. Subsequently, the A.O. issued statutory notices under sections 143(2) and 142(1) and the case was fixed from time to time. The assessee filed requisite details as and when called for. The A.O. thereafter on verification of the Bank A/c of the assessee found that the transactions pertaining to the insurance policy were properly explained and no adverse inference was drawn with regard to issue of insurance.

2.3. However, the A.O. from the Bank A/c with Gurgaon Gramin Bank noted that there are entries of receipt for the payment of Rs.6,60,93,750/-. He, therefore, asked the assessee to give narration of all debit and credit entries in this account and also to file a note on the nature of amount of receipt of Rs.6,60,93,750/-. It was explained by the assessee that he had worked as an Arbitrator in the case of disputes between buyer and owner. There was an agreement between the assessee and the seller [Phool Singh, Ghanshyan and Deep Chand] who are owners of the land to sell the land to M/s. Vikram Electric Equipment Pvt. Ltd., It was submitted that M/s. Vikram Electric Equipment Pvt. Ltd., paid Rs.6,60,93,750/- to buy the land. However, the land owners sold the property to third party after receiving the payment of Rs.6,60,93,750/- from Vikram Electric Equipment Pvt. Ltd. Then the assesssee filed the FIR against the land owners. It was stated that after filing the FIR, the land owners agreed to return the amount with a condition that they will transfer the amount in assessee's account if Vikram Electrics Equipment Pvt. Ltd. withdraws the case. The land owners transferred Rs.6.60.93.750/- in assessee's account on 22.11.2007 vide cheque No.266375. The assessee thereafter transferred Rs.3,60,93,750/- on 22.11.2007 vide cheque No.271266 from Gurgaon Gramin Bank to M/s Vikram Electric Equipment Pvt. Ltd. immediately after he received the funds and the remaining amount paid by the assessee later on during the year once all the cases were resolved. In support, the assessee has also filed copy of FIR and both the above cheques and "Mukhitarnama Khas" regarding the receipt of the amount of Rs.6,60,93,750/-. For filing the other copy of the court order and the receipt for the balance payment, the assessee required some time. However, the A.O. did not grant any time because of the assessment getting time barred. In the absence of any documentary evidence regarding the payment of Rs.3,00,00,000/- (66093750 – 36093750), the A.O. held the same to be unexplained and accordingly, made addition of Rs.3,00,00,000/- to the total income of the assessee.

2.4. The A.O. accordingly determined the total income of the assessee at Rs.3,12,78,494/- and agricultural income of Rs.7,88,945/-.

2.5. Before the Ld. CIT(A) assessee made elaborate submissions and filed certain additional evidences. The Ld. CIT(A) called for a remand report from the A.O. After considering the remand report of the A.O. and the rejoinder of the assessee to such remand report, the Ld. CIT(A) sustained the addition made by the A.O. by observing as under :

3.8 **I have carefully considered the rival submissions.** Brief facts which emerge are as under:-

(i) Sh. Dharampal Singh S/o Sh. Parsa Ram had entered into an agreement with Sh. Phool Chand, Sh. Deep Chand, Sh. Ghanshyam das for purchase of land on behalf of M/s Vikram Electrical Equipment Pvt. Ltd.

(ii) As per the agreement, an amount of Rs. 6,60,93,750/- was paid to the above persons.

(iii) On account of some dispute between buyers and sellers entire amount was returned back in the account of the appellant Sh. Jeet Singh who was appointed as mediator between both the parties.

(iv) Sh. Jeet Singh, the appellant paid an amount of Rs. 3,60,93,750/- to M/s Vikram Electrical Equipment Pvt. Ltd. on 22.11.2007 i.e on the date which the amount of Rs. 6,60,93,750/- was received by him.

(v) Regarding the balance amount of Rs. 3 crores, Sh. Dharampal Singh gave an undertaking to the appellant that no amount was receivable by Sh. Dharampal Singh on behalf of M/s Vikram Electrical Equipment Pvt. Ltd. and there would be no claim in future.

(vi) Information was called for from M/s Vikram Electrical Equipment Pvt. Ltd. with regard to the appellnat's claim that Rs. 3 crores were paid on behalf of M/s Vikram Electrical Equipment Pvt. Ltd., to Sh. Rakesh Kumar (Rs. 2,30,00,000/-) and on account of stamp duty on behalf of M/s N. R. Buildcon (Rs. 70,00,000/-), which was to be paid by M/s Vikram Electrical Equipment Pvt. Ltd., M/s Vikram Electrical Equipment Pvt. Ltd. denied had received the said amount of Rs. 3 crores.

3.9 It is thus a fact on record that the appellant had received Rs. 6,60,93,750/- on account of the proceedings related to transaction of immovable property referred to in the assessment order. It is also a undisputed fact on record that initially the appellant had paid only an amount of Rs. 3,60,93,750/- to M/s Vikram Electrical Pvt. Ltd. and the remaining amount of Rs. 3 crore was still lying with the appellant on 22.11.2007 i.e. the date on which the appellant had received the amount of Rs. 6,60,93,750/- and had transferred the amount of Rs. 3,60,93,750/- to M/s Vikram Electrical Pvt. Ltd. The appellant has contended that the remaining amount was also paid on behalf of M/s Vikram Electrical Pvt. Ltd. to Sh. Rakesh Kumar (Rs. 2,30,00,000/-) and on account of stamp duty on behalf of M/s N. R Buildcon (Rs. 70,00,000/-) which was otherwise to be paid by M/s Vikram Electrical Pvt. Ltd. The appellant has however not been able to give any supporting evidence in this regard. As mentioned above, M/s Vikram Electrical Pvt. Ltd. has denied having received the amount of Rs. 3 crores from the appellant. In these circumstances the claim of the appellant with regard to the payment of Rs. 3 crores on behalf of M/s Vikram Electrical Pvt. Ltd. to Sh. Rakesh Kumar and on account of stamp duty is a mere self-serving statement.

3.10 It may be relevant to mention here that as per the documents filed by the appellant during the course of appellate proceedings, it is observed that Sh. Jeet Singh who was appointed as mediator between both parties had paid amount of Rs.3,60,93,750/- to M/s Vikram Electric Equipment Ltd. on receiving the amount of Rs.6,60,93,750/-. Regarding balance amount of Rs.3 crore Sh. Dharampal had given undertaking to Sh. Jeet Singh that no amount was receivable by him and there will be no claim in future. It is evident that the appellant had received an amount of Rs. 3 crores for his role in resolving the property dispute between the buyers and sellers referred to in the assessment order. The addition made by the

A.O is accordingly confirmed. The grounds of appeal filed by the appellant are dismissed.

4. The appeal of the appellant is dismissed.

3. Aggrieved with such Order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds.

1That the order of the Ld. CIT (A) 1 Gurgaon is erroneous both in law and on facts.

2 That the Ld. CIT(A) has erred in confirming the order of the AO in a case where the AO himself accepts the explanation and objection of the assessee and does not assess the income which was the very basis of issue of notice under section 147/148 of I.T.Act and goes on in making altogether new addition during reassessment proceedings.

3That the Ld.CIT(A) has erred in confirming the addition of Rs 3 cr by ignoring the documentary evidences produced during appellate proceedings in the entirety of circumstances, by drawing his own conclusions on the basis of conjectures and surmises and even after stepping in to the shoes of the AO without making detailed enquiries warranted in the case of complex facts .

4 That the order of the LD.CIT(A) may kindly be cancelled and addition made may kindly be deleted.

3.1. The assessee has also raised the following additional grounds :

1. *"In the facts and circumstances of the case and in law, the Ld. A.O. had erred in issuing notice u/s 148 of the I.T. Act on the basis of information from the Investigation wing only without application of mind and analysing the basic facts of the case. The notice issued on the basis of borrowed satisfaction is illegal and void and consequently assessment based on such notice may kindly be quashed.*
2. *In the facts and circumstances of the case and in law, the requisite permission by Joint commissioner of Income Tax Range-ii Gurgaon has been granted in a mechanical fashion without analysing the reasons recorded by the Ld. A.O. and notice issued in lieu of such permission is void in law."*

3.2. The Learned Counsel for the Assessee referring to the decisions of Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. vs., CIT reported in [1998] 229 ITR 383 (SC) and in the case of Jute Corporation of India Ltd., vs., CIT reported in [1991] 187 ITR 688 (SC) and various other decisions submitted that all the material facts are already available on record and no new facts are required to be investigated. The additional grounds being legal in nature and go to the root of the matter and, therefore, these additional grounds should be admitted for adjudication.

4. After hearing both the sides and considering the fact that the additional grounds raised by the assessee are purely legal in nature and no new facts are required to be investigated and these grounds go to the root of the matter, therefore, the additional grounds raised by the assessee are admitted for adjudication.

5. Learned Counsel for the Assessee at the outset referring to the copy of the reasons recorded submitted that the case was reopened on the ground that assessee has purchased insurance policy for Rs.1.68 crores and surrendered the policy within 03 years. However, in the final order, the A.O. has not made any such addition for which the reopening was made, but, has made addition on some other ground. Referring to the decision of the Hon'ble

Delhi High Court in the case of Ranbaxy Laboratories Ltd., vs., CIT reported in 2011-TIOL-356-HC-Delhi, he submitted that when no addition has been made on the issue for which the case was reopened under section 147, the A.O. could not have made any other addition without issuing fresh notice under section 148 of the I.T. Act after recording reasons under section 147 of the I.T. Act, 1961 for escapement of income. Since the A.O. in the instant case has not done so, therefore, such addition being bad in Law has to be deleted and the entire 147 proceedings should be quashed. He also relied upon the decision of the Hon'ble Bombay High Court in the case of CIT vs., Jet Airways India Ltd., [2011] 331 ITR 236 (Bom.) and various other decisions.

6. The Ld. D.R. on the other hand, strongly relied upon the Order of the Ld. CIT(A). She submitted that assessee has not taken any such ground before the Ld. CIT(A), therefore, he cannot raise this issue. She submitted that the Ld. CIT(A) has passed an elaborate order while

sustaining the addition of Rs.3 crores made by the A.O. Therefore, the grounds raised by the assessee should be dismissed.

7. We have considered the rival arguments made by both the parties, perused the Orders of the A.O. and Ld. CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the A.O. in the instant case reopened the assessment on the ground that assessee has purchased insurance policy for Rs.1.68 crores and surrendered the policy within 03 years. Therefore, he had reason to believe that the income of the assessee to the tune of Rs.1.61 crores has escaped assessment. However, in the body of the assessment order, the A.O. has not made any such addition on account of the surrendered insurance policy, but, has made addition of Rs.3 crores for some other reason. We find the Ld. CIT(A) sustained the addition, the reasons of which have already been reproduced in the preceding paragraph. It is the submission of the Learned Counsel for the Assessee that when the A.O. has not made any addition on the issues

for which the case of the assessee was reopened, he cannot make any other addition without issuing fresh notice under section 148 after recording escapement of income and, therefore, the entire re-assessment proceedings are vitiated.

7.1. We find merit in the above arguments of the Learned Counsel for the Assessee. It is an admitted fact that the A.O. has not made any addition on account of the reasons for which the case of the assessee was reopened but has made certain other additions. We find the Hon'ble Delhi High Court in the case of Ranbaxy Laboratories Ltd., (supra) has held that the A.O. had jurisdiction to re-assess the issues other than the issues in respect of which proceedings are initiated, but, he was not so justified when the reasons for the initiation of those proceedings ceased to survive. The relevant observations of the Hon'ble Delhi High Court from para-12 to 22 reads as under :

> *"12. The submission of learned counsel for the Revenue was that when reassessment is reopened by issuance of notice under Section 148, the previous*

assessment is set aside and the whole assessment proceedings start afresh and the Assessing Officer has power to levy taxes on the entire income which has escaped assessment. The learned counsel relied upon the cases of Supreme Court in Commissioner of Income Tax v. Sun Engineering Work Limited 198 ITR 297 and V. Jaganmohan Rao and Ors. Vs. Commissioner of Income- tax and Excess Profits Tax, Andhra Pradesh (1970) 75 ITR 373 (SC). On the other hand learned counsel for the assessee submitted that the words, „and also" in Section 147 signify that unless the Assessing Officer assesses the income with respect to which he has formed reason to believe within the meaning of Section 147, it would not be open for him to assess or reassess any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of proceedings. Learned counsel relied upon the case of Jet Airways (supra) and also Commissioner of Income Tax v. Shri Ram Singh (2008) 306 ITR 343 (Raj) and Commissioner *of Income Tax v. Dr. Devender Gupta 174 Taxman 438 (Raj.). Reliance was also placed in the case of C.J. International Hotels Ltd. v. ITO being ITA No. 2736/Del./2006 dated 24th October, 2008.*

13. Similar contention was raised before the Division Bench of Bombay High Court in the case of Jet Airways (supra). The Court referred to the interpretation by Rajasthan High Court in Ram Singh (supra) wherein it was observed as under:-

> *".... it is only when, in proceedings under Section 147 the Assessing Officer, assesses or reassesses any income chargeable to tax which has escaped assessment for any assessment year, with respect to which he had "reason to believe" to be so, then only, in addition, he can also put to tax, the other income, chargeable to tax, which has escaped assessment, and which has come to*

his notice subsequently, in the course of proceedings under Section 147.

To clarify it further, or to put it in other words, in our opinion, if in the course of proceedings under Section147, the Assessing Officer were to come to the conclusion, that any income chargeable to tax, which, according to his "reason to believe", had escaped assessment for any assessment year, did not escape assessment, then, the mere fact that the Assessing Officer entertained a reason to believe, albeit even a genuine reason to believe, would not continue to vest him with the jurisdiction, to subject to tax, any other income, chargeable to tax, which the Assessing Officer may find to have escaped assessment, and which may come to his notice subsequently, in the course of proceedings under Section 147.

14. The Bombay High Court also discussed the case of Jaganmohan Rao (supra) and Sun Engineering (supra) of the Apex Court. In the case of Sun Engineering (supra) the issue before the Supreme Court was whether in the course of reassessment on an escaped item of income could an assessee seek a review in respect of an item which stood concluded in the original order of assessment. The Supreme Court dealt with the provisions of Section 147, as they stood prior to the amendment on 1st April, 1989. In this context, the Supreme Court held that the expression "escaped assessment" includes both "non-assessment" as well as "under-assessment". The expression "assess" was defined as referring to a situation where the assessment is made for the first time under Section 147, whereas "reassess" as referring to a situation where the assessment has already been made, but the Assessing Officer has reason to believe that there is under assessment on account of the existence of any of the grounds stipulated in Section 147. The Supreme Court *referred to the judgment in the case of Jaganmohan Rao (supra) wherein it was held that the object of Section 147 enures to the benefit of the Revenue and it is not open to the assessee to convert the reassessment proceedings as an appeal or revision and thereby seek relief in respect of items which were rejected earlier or in respect of items not claimed during the course of the original assessment proceedings.*

15. In Dr.Devendra Gupta's case (supra), learned Tribunal has relied upon the judgment of the Punjab & Haryana High Court, in Atlas Cycle Industries case (supra), and concluded that the basic condition is, that the AO has reason to believe, that any income chargeable to tax has escaped assessment, for any assessment year, and it was found, that the section puts no bar on the powers of the AO, to put to tax, any other income, chargeable to tax, which has escaped assessment, and which subsequently comes to his notice, in the course of the proceedings, but then, the prefixing words "and also", which succeeded "any *income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of ss. 148 to 153, assess or reassess such income". This expression was found to be making clear, that existence of the income, for which the AO formed belief, to have escaped assessment, is a precondition, for including any other income chargeable to tax, escaping assessment, and coming to the notice of the AO subsequently, in the course of the proceedings. Thus, unless and until such income, as giving rise to form belief, for escaping assessment, continues to exist, and constitutes a subject-matter of assessment, under s.147 "no other income" coming to the notice of the AO, during the course of the proceedings, can be roped in.*

16. In the case In the case of C.J. International Hotels Ltd.(supra) before the Tribunal, the facts were almost similar as in the present case. The Tribunal relied upon the case of Commissioner of Income Tax v. Shri Ram Singh (supra) while holding that the Assessing Officer was justified in initiating the *proceedings under Section 147/148 , but then, once he came to the conclusion, that the income, with respect to which he had entertained, his jurisdiction came to a stop at that, and did not continue to possess jurisdiction, to put to tax, any other income which subsequently came to his notice, in the course of the proceedings, which were found by him, to have escaped assessment.*

17. Now, coming back to the interpretation which was given by the Bombay High Court to Sections 147 and 148 in view of the precedent on the subject. The Court held as under:-

> *"11. ... Interpreting the provision as it stands and without adding or deducting from the words used by Parliament, it is clear that upon the formation of a reason to believe under Section 147 and following the issuance of a notice under Section 148, the Assessing Officer has the power to assess or reassess the income which he has reason to*

believe had escaped assessment and also any other income chargeable to tax. The words "and also" cannot be ignored. The interpretation which the Court places on the provision should not result in diluting the effect of these words or rendering any part of the language used by Parliament otiose. Parliament having used the words "assess or reassess such income and also any other income chargeable to tax which has escaped assessment", the words "and also" cannot be read as being in the alternative. On the contrary, the correct interpretation would be to regard those words as being conjunctive and cumulative. It is of some significance that Parliament has not used the word "or". The Legislature did not rest content by merely using the word "and". The words "and" as well as "also" have been used together and in conjunction."

...

Evidently, therefore, what Parliament intends by use of the words "and also" is that the Assessing Officer, upon the formation of a reason to believe Under Section 147 and the issuance of a notice under Section 148(2) must assess or reassess: (i). 'such income'; and also (ii) any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under the section. The words 'such income' refer to the income chargeable to tax which has escaped assessment and in respect of which the Assessing Officer has formed a reason to believe that it has escaped assessment. Hence, the language which has been used by Parliament is indicative of the position that the assessment or reassessment must be in respect of the income in respect of which he has formed a reason to believe that it has escaped assessment and also in respect of any other income which comes to his notice subsequently *during the course of the proceedings as having escaped assessment. If the income, the escapement of which was the basis of the formation of the reason to believe is not assessed or reassessed, it would not be open to the Assessing Officer to independently assess only that income which comes to his notice subsequently in the course of the proceedings under the section as having escaped assessment. If upon the issuance of a notice under Section 148(2), the Assessing Officer accepts the objections of the assessee and does not assess or reassess the income which was the basis of the notice, it would not be open to him to assess income under some other issue independently. Parliament when it enacted the provisions of Section 147 with effect from 1st April 1989 clearly stipulated that the Assessing Officer has to assessee or reassess the income which he had reason to believe had escaped assessment and also any other income* *chargeable to tax which came to his notice during the proceedings. In the absence of the assessment or reassessment the former, he cannot independently assess the latter."*

Section 147 has this effect that the Assessing Officer has to assessee or reassess the income ("such income") which escaped assessment and which was the basis of the formation of belief and if he does so, he can also assess or reassess any other income which has escaped assessment and which comes to his notice during the course of the proceedings However, if after issuing a notice under Section 148, he accepted the contention of the assessee and holds that the income which he has initially formed a reason to believe had escaped assessment, has as a matter of fact not escaped assessment, it is not open to him independently to assess some other income. If he intends to do so, a fresh notice under Section 148 would be necessary, the legality of which *would be tested in the event of a challenge by the assessee.*

18. We are in complete agreement with the reasoning of the Division Bench of Bombay High Court in the case of Jaganmohan Rao (supra). We may also note that the heading of Section 147 is "income escaping assessment" and that of Section 148 "issue of notice where income escaped assessment". Sections 148 is supplementary and complimentary to Section 147. Sub-section (2) of Section 148 mandates reasons for issuance of notice by the Assessing Officer and sub-section (1) thereof mandates service of notice to the assessee before the Assessing Officer proceeds to assess, reassess or recompute escaped income. Section 147 mandates recording of reasons to believe by the Assessing Officer that the income chargeable to tax has escaped assessment. All these conditions are required to be fulfilled to assess or reassess the escaped income chargeable to tax. As per explanation (3) if during the course of these proceedings the Assessing Officer comes *to conclusion that some items have escaped assessment, then notwithstanding that those items were not included in the reasons to believe as recorded for initiation of the proceedings and the notice, he would be competent to make assessment of those items. However, the legislature could not be presumed to have intended to give blanket powers to the Assessing Officer that on assuming jurisdiction under Section 147 regarding assessment or reassessment of escaped income, he would keep on making roving inquiry and thereby including different items of income not connected or related with the reasons to believe, on the basis of which he assumed jurisdiction. For every new issue coming before Assessing Officer during the course of proceedings of assessment or reassessment of escaped income, and which he intends to take into account, he would be required to issue a fresh notice under Section 148.*

19. In the present case, as is noted above, the Assessing Officer was satisfied with the justifications *given by the assessee regarding the items viz., club fees, gifts and presents and provision for leave encashment, but, however, during the assessment proceedings, he found the deduction under Section 80 HH and 80-I as claimed by the assessee to be not admissible. He consequently while not making additions on those items of club fees, gifts and presents, etc., proceeded to make deductions under Section 80HH and 80-I and accordingly reduced the claim on these accounts.*

20. The very basis of initiation of proceedings for which reasons to believe were recorded were income escaping assessment in respect of items of club fees, gifts and presents, etc., but the same having not been done, the Assessing Officer proceeded to reduce the claim of deduction under Section 80 HH and 80-I which as per our discussion was not permissible. Had the Assessing Officer proceeded not to make dis-allowance in respect of the items of club fees, gifts and presents, etc., then in view of our discussion as above, he would *have been justified as per explanation 3 to reduce the claim of deduction under Section 80 HH and 8-I as well.*

21. In view of our above discussions, the Tribunal was right in holding that the Assessing Officer had the jurisdiction to reassess issues other than the issues in respect of which proceedings are initiated but he was not so justified when the reasons for the initiation of those proceedings ceased to survive. Consequently, we answer the first part of question in affirmative in favour of Revenue and the second part of the question against the Revenue.

22. The present appeal is accordingly allowed."

7.2. Since, in the instant case, admittedly no addition has been made on account of the issue for which the case of the assessee was reopened but addition has been made on some other ground without issuing fresh notice under section 148 after recording reasons under section 147 for escapement of income, therefore, the addition made by the

A.O. amounting to Rs.3,00,00,000/- does not survive being not in accordance with Law. The Order of the Ld. CIT(A) is accordingly set aside, and the A.O. is directed to delete the addition. Accordingly, Ground No.2 raised by the assessee is allowed.

7.3. Since the assessee succeeds on this legal ground, the other grounds challenging the addition on merits and the additional grounds challenging validity of the re-assessment proceedings on account of mechanical approval, borrowed satisfaction etc., become academic in nature and, therefore, are not being adjudicated.

8. In the result, appeal of the Assessee allowed.

Order pronounced in the open Court on 24.06.2021.

Sd/-	Sd/-
(SUDHANSHU SRIVASTAVA)	(R.K. PANDA)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Delhi, Dated 24th June, 2021

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'C' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.