

## Cited Here

**LAKHMI CHAND TEJOO MAL vs. ASSISTANT COMMISSIONER OF INCOME TAX  
IN THE ITAT DELHI BENCH 'D'**

**N.K. BILLAIYA, AM & SUCHITRA KAMBLE, JM.**

*ITA No. 8094/DEL/2019*

*Aug 6, 2021*

*(2021) 62 CCH 0386 DelTrib*

### Legislation Referred to

*Section 143(3), 147, 151*

### Case pertains to

*Asst. Year 2011-12*

### Decision in favour of:

*Assessee*

***Reassessment — Reopening of assessment — Assessee filed its original return of income — Assessment was completed — Pursuant to information received from Office of ADIT, that assessee was beneficiary of accommodation entry Assessing Officer reopened completed assessment — Held, 11 entries have been shown in information and it can be seen that there are repetition of same entries/amounts and Assessing Officer has, considered only 4 entries where total unsecured loan amount comes to Rs. 75 lakhs and information is in respect of amount of Rs. 2.05 crores — High Court of Delhi in RMG Poly Viynl India Ltd ITA No. 29/2017 & CM No. 1009/2017 held that information received from Investigation Wing cannot be said to be tangible material per se without a further inquiry being undertaken by AO — In present case AO deprived himself of that opportunity by proceeding on erroneous premise that Assessee had not filed a return when in fact it had — In light of aforementioned decision, contention that Assessing Officer has applied his mind while framing assessment order does not hold any water because application of mind is required while issuing notice u/s 148 and not during assessment proceedings because challenge is of notice for reopening assessment which when served, sets law into motion — Assumption of jurisdiction by issue of notice u/s 148 is bad in law — Assessee's appeal allowed.***

Held

*11 entries have been shown in the information and it can be seen that there are repetition of same entries/amounts and the Assessing Officer has, considered only 4 entries where total unsecured loan amount comes to Rs. 75 lakhs and information is in respect of amount of Rs. 2.05 crores.*

*(para 6)*

*High Court of Delhi in RMG Poly Viynl India Ltd ITA No. 29/2017 & CM No. 1009/2017 held as under:*

*"13. Information received from the Investigation Wing cannot be said to be tangible material per se without a further inquiry being undertaken by the AO. In the present case the AO deprived himself of that opportunity by proceeding on the erroneous premise that Assessee had not filed a return when in fact it had.*

*(para 11)*

*High Court of Delhi in Synfonia Trade Links Pvt Ltd in WT(C) 12544/2018 considered similar issue as under:*

*"9.2. Order recording reasons has unequivocally stated that under the heading "Details of information received regarding escapement of income and analysis" that material impounded during the search revealed that he had made investments in the form of share capital, share premium, loans and advance in lieu of cash via front/non-listed companies controlled by dummy directors which included the assessee.*

*9.3. Respondent no.1 in no uncertain terms, has indicated in the order recording reasons that the information which triggered the initiation of proceedings qua the assessee under Section 147 was received upon a search being carried out at the residence of P. While a general statement had been made that Mr. Pradeep Kumar Jindal had provided accommodation entries in the form of share capital/share premium, loans and advances, in lieu of cash, qua a large number of beneficiaries through his front companies, insofar as the assessee was concerned, it was emphasized that the accommodation entry was reflected in its books in the form of bogus "share capital and share premium".*

*9.7. Formation of belief that income of the assessee chargeable to tax had escaped assessment, was unreasonable."*

*(para 12)*

*In light of the aforementioned decisions of Jurisdictional High Court, contention that the Assessing Officer has applied his mind while framing assessment order does not hold any water because the application of mind is required while issuing notice u/s 148 and not during assessment proceedings because the challenge is of the notice for reopening the assessment which when served, sets the law into motion. Assumption of jurisdiction by issue of notice u/s 148 is bad in law. Assessee's appeal allowed.*

*(para 13)*

***RMG Poly Viynl India Ltd ITA No. 29/2017 & CM No. 1009/2017, Synfonia Trade Links Pvt Ltd in WT(C) 12544/2018 relied.***

## Conclusion

*Assessing Officer has applied his mind while framing assessment order does not hold any water because the application of mind is required while issuing notice u/s 148 and not during assessment proceedings because the challenge is of the notice for reopening the assessment which when served, sets the law into motion.*

## In favour of

*Assessee*

## Cases Referred to

*CIT v. Suren International (2013) 357 ITR 24 (Del)*

## Counsel appeared:

*Kapil Goel, Adv for the Assessee.: E.V. Bhaskar, Sr. DR for the Revenue*

## **N. K. BILLAIYA, AM.**

1. This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] -16, Delhi dated 01.08.2019 pertaining to Assessment Year 2011-12.
2. The grievance of the assessee is two-fold - Firstly, the assessee is aggrieved by the reopening of the assessment u/s 147 of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] and secondly, on merits, the assessee has challenged the addition of Rs. 75 lakhs on account of unsecured loans u/s 68 of the Act and disallowance of Rs. 4,25,194/- made by the Assessing Officer on account of interest paid for the unsecured loans.
3. Representatives of both the sides were heard at length. Case records carefully perused and judicial decisions relied upon by both the sides duly considered.
4. Briefly stated, the facts of the case are that the assessee filed its original return of income on 28.09.2011 declaring income at Rs. 43,06,620/-. Assessment was completed u/s 143(3) of the Act vide order dated 13.03.2014.
5. Pursuant to the information received from the Office of the ADIT, INV. Wing, Unit 2(1), New Delhi, the Assessing Officer reopened the completed assessment by issuing notice u/s 148 of the Act. Reasons for reopening assessment read as under:
  1. Brief details of the Assessed: The assessee M/s Lakchmi Chand Tejoo Mai. 876. Kucha Kabil Attar. Chandm Chowk. Delhi. 110006 has PAN : AAFL3353P. The last return of the assessee was filed on 30.10.2017 for A.Y. 2017-18 which has not been processed so far.
  2. Brief details of information collected/ received by the AO: A letter dated 15.03.2018 was received in this office through the Office of Pr. CIT Delhi-16, New Delhi, from Asst. Director of Income Tax (Inv.) Unit- 2(1), New Delhi. As per the letter, it is noted that a search and seizure operation was executed on 18.11.2015 oil Sh. Pradeep Kumar Jindal. During the course of search, it was found Sh. Pradeep Kumar Jindal was engaged in providing accommodation

entries to different beneficiaries. The bank statements of various front companies of Sh. Pradeep Kumar Jindal provided by Vaish Cooperative Commercial Bank Ltd. Nai Sarak Delhi, reveals that huge cash was being deposited in such bank accounts and RTGS/ Cheque issued immediately to other bank accounts in the same bank for purpose of layering and on 3<sup>rd</sup> and 4<sup>th</sup> stage finally RTGS/Cheque was issued to the beneficiaries for purpose of providing accommodation entries.

3. Analysis of information collected/ received: On perusal of report, various findings of investigation wing and document attached with the letter as Annexure A-1. it is seen that the assessee, M/s Lakchmi Chand Tejoo Mai had been provided accommodation entries as follow:

S. No	Name & Address of the beneficiary	Amount (Rs.)	Date of Entry	Entry provided by
1.	Lakchmi Chand Tejoo Mai	20,00,000	23.09.2010 --	Focus Industrial Resource Ltd.
2.	Lakchmi Chand Tejoo Mal	20,00,000	14.09.2010	Focus Industrial Resource Ltd.
3.	Lakchmi Chand TejooMal	20,00,000	24.09.2010	Focus Industrial Resource Ltd.
4.	Lakchmi Chand Tejoo ! Mai	20,00,000	16.09.2010	PawanSut Holdings Ltd.
5.	Lakchmi Chand Tejoo Mal	15,00,000	25.09.2010	PawanSut Holdings Ltd.
6.	Lakchmi Chand Tejoo Mal	20,00,000	16.09,2010	Focus Industrial Resource Ltd.
7;	Lakchmi Chand Tejoo	20,00,000	25.09.2010	Focus Industrial Resource Ltd
8.	Lakchmi Chand Tejoo Mal	20,00,000	18.09.2010.	PawanSut Holdings Ltd.

		15 00 000	08.10.2010 --	PawanSut
	9. Lakchmi Chand Tejoo Mal			Holdings Ltd.
	10 Lakchmi Chand Tejoo-Mal	20,00,000	18.09.2010	PawanSut Holdings Ltd.
		15,00,000	08.10.2010	PawanSut Holdings
	11.; Lakchmi Chand Tejoo Mal			Ltd.
	Total	2,05,00,000	1	

Further, as per this letter received from Asst. Director of Income Tax (Inv.) Unit- 2(1), New Delhi Sh. Pradeep Kumar Jindal has admitted to have charged commission in cash @ 2.5% from various beneficiaries for providing accommodation entries in lieu of cash. The commission paid in cash @2.5% by the beneficiary to Sh. Pradeep Kumar Jindal on account of accommodation entries has to be added to taxable income of the beneficiary assessee. In view of this commission of Rs. 5,12,500/- is also the income of the assessee. Thus the total income escaped taxation comes to be Rs. 2,10,12,500/- (Rs. 2,05,00,000/- + Rs. 5,12,500/-).

Enquiries made by the AO as sequel to information collected/ received:

Enquiries made by the undersigned clearly shows that the assessee LakchmiChand Tejoo Mai has been a beneficiary of accommodation entries provided by Sh. Pradeep Kumar Jindal. There is a 'live link' between the information available with the depart, at and the enquiries made by the department in this case.

5. Findings of the AO: In view of the above discussion and analysis of the material and enquiries made by undersigned clearly shows that the assessee has been a beneficiary of the accommodation entries provided by Sh. Pradeep Kumar Jindal or his associated entities in different layers.

6. Basis of forming reason to believe and details of escapement of income: As per enquiries made by investigation wing of the department and the undersigned from the system and the material available in this case I have reasons for belief that income has escaped assessment which has been sufficiently demonstrated. Consequently. I have reasons to believe that the assessee has furnished inaccurate particulars of his income for A.Y. 2011-12 and income has escaped assessment due to failure on part of the assessee within the meaning of Sec. 147 of I.T. Act, 1961.

7. Seventh paragraph will include escapement of income chargeable to tax in relation to any assets (including financial interest in any entity) located outside India:

N.A.

8. Findings of the AO on true and full disclosure of the material facts necessary for assessment under proviso to section 147.

The material available and the information received in this case shows that the assessee has availed the undue benefits from the accommodation entries. Benefits from these transactions had not been shown in the original return by the assessee. Neither was this income added during the assessment made in this case for A.Y. 2011-12 as the assessee had not disclosed this income neither in his ITR nor during the assessment proceedings. The material facts are clear and sound in this case.

9. Applicability of the provisions of section 147/ 151 to the facts of the case:

In this case return of income was filed for the year under consideration and regular assessment u/s 143(3) was made on 13.03.2014. Since, 4 years from the end of the relevant assessment year has expired in this case, the requirements to initiate proceedings u/s 147 of the Act: are reason to believe that income for the year under consideration has escaped assessment because of failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for the assessment year under consideration. It is pertinent to mention here that reasons to believe that income has escaped assessment for the year under consideration have recorded above in para 3. I have carefully considered the assessment records containing the submissions made by the assessee in response to various notices issued during the assessment proceedings and have noted that the assessee has not fully and truly disclosed the material facts.

In this case more than four years have lapsed from the end of assessment year under consideration. Hence, necessary sanction to issue notice u/s 148 is being obtained separately from Principal Commissioner of Income Tax Delhi under amended provisions of section 151 of the Act w.e.f. 01.06.2016.

Dated: 21.03.2018

Place: New Delhi

(Dr. Bhageerath Choudhary)

Assistant Commissioner of Income Tax

Cir -47(1), New Delhi

6. The main challenge put forth by the ld. counsel for the assessee relates to the details provided by the ADIT, INV which is at Para 3 of the reasons. The ld. counsel for the assessee vehemently stated that 11 entries have been shown in the information and it can be seen that there are repetition of same entries/amounts and the Assessing Officer has, in fact, at para -6 of his order considered only 4 entries where total unsecured loan amount comes to Rs. 75 lakhs and information is in respect of amount of Rs. 2.05 crores.

7. Strong reliance was placed on the decision of the Hon'ble Jurisdictional High Court in the case of RMG Poly Viynl India Ltd ITA No. 29/2017 & CM No. 1009/2017 order dated 07.07.2017.

8. Further reliance was placed on the decision of the co-ordinate bench in ITA No. 4991/DEL/2014 and 4853/DEL/2014 and also on the decision of the Hon'ble High Court of Delhi in the case of Synfonia Trade Links Pvt Ltd in WT(C) 12544/2018 judgment pronounced on 26.03.2021. Referring to all these

judgments, the Id. counsel for the assessee vehemently stated that in all these judgments, the issue was in relation to multiple entries in the information received from INV Wing where the additions were made by reopening assessment.

9. The Id. counsel for the assessee also argued that the Assessing Officer has not applied his mind before issuing notice u/s 148 of the Act as it can be seen from the reasons for reopening assessment and additions made in the assessment order dated 18.12.2018.

10. Strongly relying on the order of the Id. CIT(A), the Id. DR stated that the assessment process is a fact finding process and when the Assessing Officer found that there were several entries of the same amount, he restricted the addition to actual transaction which shows that the Assessing Officer has applied his mind. The Id. DR relied upon the very same decisions which have been relied upon by the first appellate authority in his appellate order.

11. We have given thoughtful consideration to the orders of the authorities below. The Hon'ble High Court of Delhi was seized with a similar situation in the case of RMG Poly Vynl India Ltd [supra]. The relevant part of the judgment reads as under:

"9. However, in neither of the above cases are the facts similar to those in the present case. The two glaring errors in the reasons in the present case are, in fact, unusual. What the AO might have done if he was aware, even at the stage of consideration of reopening of the assessment that a return had in fact been filed by the Assessee and that the extent of the accommodation entries was to the tune of Rs.78 lakh and not Rs.1.56 crore would be a matter of pure speculation at this stage. He may or may not have come to the same conclusion. But that is not the point. The question is of application of mind by the AO to the material available with him before deciding to reopen the assessment under Section 147 of the Act.

10. In this context the following observations of this Court in CIT v. Suren International (2013) 357 ITR 24 (Del) are relevant:

"...In the first instance, we do not find the reasons as recorded by the Assessing Officer to be reasons in law, at all. A bare perusal of the table of alleged accommodation entries included in the reasons as recorded, discloses that the same entries have been repeated six times. This is clearly indicative of the callous manner in which the reasons for initiating reassessment proceedings are recorded and we are unable to countenance that any belief based on such statements can ever be arrived at. The reasons have been recorded without any application of mind and thus no belief that income has escaped assessment can be stated to have been formed based on such reasons as recorded."

11. There can be no manner of doubt that in the instant there was a failure of application of mind by the AO to the facts. In fact he proceeded on two wrong premises - one regarding alleged non-filing of the return and the other regarding the extent of the so-called accommodation entries.

12. Recently, in its decision dated 26th May, 2017 in ITA No.692/2016 (Principal Commissioner of Income Tax-6 v. Meenakshi Overseas Pvt. Ltd.), this Court discussed the legal position regarding reopening of assessments where the return filed at the initial stage was processed under Section 143(1) of the Act and not under Section 143(3) of the Act. The reasons for the reopening of the assessment in that case were more or less similar to the reasons in the present case, viz., information was received from the Investigation Wing regarding accommodation entries provided by a 'known' accommodation entry provider. There, on facts,

the Court came to the conclusion that the reasons were, in fact, in the form of conclusions "one after the other" and that the satisfaction arrived at by the AO was a "borrowed satisfaction" and at best "a reproduction of the conclusion in the investigation report."

13. As in the above case, even in the present case, the Court is unable to discern the link between the tangible material and the formation of the reasons to believe that income had escaped assessment. In the present case too, the information received from the Investigation Wing cannot be said to be tangible material per se without a further inquiry being undertaken by the AO. In the present case the AO deprived himself of that opportunity by proceeding on the erroneous premise that Assessee had not filed a return when in fact it had.

14. To compound matters further the in the assessment order the AO has, instead of adding a sum of Rs.78 lakh, even going by the reasons for reopening of the assessment, added a sum of Rs.1.13 crore. On what basis such an addition was made has not been explained.

15. For the aforementioned reasons, the Court is satisfied that no error was committed by the ITAT in holding that reopening of the assessment under Section 147 of the Act was bad in law."

12. The Hon'ble High Court of Delhi, again, in the case of Synfonia Trade Links [supra] considered similar issue and the relevant extract of the judgment read as under:

"9. We have heard the learned counsel for the parties and perused the record. Before we proceed further, it would be helpful if we were to set forth certain well-established principles enunciated by the courts over the years vis-à-vis initiation of proceedings under Section 147 of the Act.

(i) The reasons which lead to the formation of opinion or belief that the assessee's income chargeable to tax has escaped assessment should be inextricably connected. In other words, the reasons for the formation of opinion should have a rational connection with the formation of the belief that there has been an escapement of income chargeable to tax (See: ITO v. Lakhmani Mewal Das, 1976 3 SCC 757]

(ii) The expression "reason to believe" is stronger than the word "satisfied". The belief should be based on material that is relevant and cogent. (See: Ganga Saran & Sons Pvt. Ltd. v. ITO, 1981 3 SCC 143].

(ii) (a) The assessing officer should have reasons to believe that the taxable income has escaped assessment. The process of reassessment cannot be triggered based on a mere suspicion. The expression "reason to believe" which is found in Section 147 of the Act does not have the same connotation as "reason to suspect". The order recording reasons should fill this chasm. The material brought to the knowledge of the assessing officer should have nexus with the formation of belief that the taxable income of the assessee escaped assessment; the link being the reasons recorded, in that behalf, by the assessing officer.

(iii) The AO is mandatorily obliged to record reasons before issuing notice to the assessee under Section 148(1) of the Act. This is evident from the bare perusal of sub-section (2) of Section 148 of the Act.

(iv) No notice can be issued under Section 148 of the Act by the A.O. after the expiry of four years from the end of the relevant AY unless the Principal Chief Commissioner or Chief

Commissioner or Principal Commissioner or Commissioner arrives at a satisfaction based on the reasons recorded by the A.O. that it is a fit case for issuance of a notice under Section 148 of the Act. [See: Section 151(1) of the Act].

(v) The limitation for issuance of notice under Section 148 as prescribed under Section 149 of the Act commences from the date of its issuance while the time limit for passing the order of assessment, reassessment, computation and re-computation as prescribed under Section 153 of the Act commences from the date of service [See: R.K. Upadhyay v. Shanab Bhai P. Pate, (1987) 3 SCC96].

(vi) A jurisdictional error would occur, which can be corrected by a writ court, if reasons to believe are based on grounds that are either arbitrary and/or irrational. (See: Sheo Nath Singh v. Appellate ACIT, Calcutta (1972) 3 SCC234.

9.1. Thus, if one were to apply the aforesaid principles, it would be clear as daylight that the order recording reasons discloses complete non-application of mind. The reason we say so is discernible from the following:

9.2. Respondent no.1 in paragraphs 2 and 3 of the order recording reasons has unequivocally stated that under the heading "Details of information received regarding escapement of income and analysis" that material impounded during the search conducted at the premises of Mr. Pradeep Kumar Jindal had, inter alia, revealed that he had made investments in the form of share capital, share premium, loans and advance in lieu of cash via front/non-listed companies controlled by dummy directors to the tune of nearly Rs.100 crores which included the assessee. It is in this context that in the order recording reasons, the following table is set out:

S.No.	Beneficiaries	Name of Entry Provider	Date	Amount (Rs.)
I.	Synfonia Pharmaceuticals Name changed to Synfonia Tradelinks Pvt. Ltd	Dume Footwears Pvt Ltd	09.06.2010	17,00,000
II	Synfonia Pharmaceuticals Pvt. Ltd.	-do-	09.06.2010	5,00,000/-
III	Synfonia Pharmaceuticals Pvt. Ltd.	-do-	22.06.2010	1,00,000/-
IV	Synfonia Pharmaceuticals. Pvt. Ltd	Focus Industrial Resources Ltd.	24.05.2010	43,500/-

V	Synfonia Pharmaceuticals Pvt. Ltd.	Pawansut Holdings	24.05.2010	3,50,000/-
		Total		26,93,500/-

The table extracted above, as noted in the earlier part of the judgment, is followed by the following assertion which is made in the order recording reasons:

*"Thus, the assessee company has taken bogus share capital/share premium from the said entries providers amounting to Rs.26,93,500/-."*

9.3. Furthermore, respondent no.1 in no uncertain terms, has indicated in the order recording reasons that the information which triggered the initiation of proceedings qua the assessee under Section 147 of the Act was received upon a search being carried out at the residence of Mr. Pradeep Kumar Jindal. While a general statement had been made that Mr. Pradeep Kumar Jindal had provided accommodation entries in the form of share capital/share premium, loans and advances, in lieu of cash, qua a large number of beneficiaries through his front companies, insofar as the assessee was concerned, it was emphasized that the accommodation entry was reflected in its books in the form of bogus "share capital and share premium".

9.4. Respondent no.1, in paragraph 4 of the order recording reasons, in no uncertain terms alludes to the fact that the information was received from the investigation wing. The emphasis was laid on the fact that the entry providers were three companies i.e. Dume Footwears Pvt. Ltd., Focus Industrial Resources Ltd. and Pawansut Holdings Ltd. A perusal of the order recording reasons shows that the purported investments made via these entities were quantified at Rs.26,93,500/-. This information which was the underlining material based on which proceedings under Section 147 of the Act were triggered was correlated with the return of income filed by the assessee for the concerned AY i.e. AY 2011-2012. In correlating the information, concededly, respondent no.1 made errors with regard to the basic information provided by the assessee in its balance sheet for the year ending on 31.03.2011 concerning authorized share capital, issued and subscribed paid-up share capital, share premium and even as regards the year in which the assessee had been incorporated. The facts and figures have already been recorded in paragraphs 2 to 2.9 above. Therefore, the correlation between the underlying material and the information which was available in the balance sheet of the assessee was clearly not made.

9.5. Mr. Singh, in a desperate attempt to salvage the situation, drew our attention to the unsecured loans shown in the income tax returns of the assessee for AYs 2010-2011 and 2011-2012 amounting to Rs.38,071/- and Rs.25,57,206/- respectively. Apart from anything else, simple math would show that the cumulative total of these figures is Rs.25,95,277/- and not Rs.26,93,500/- which, according to respondent no. 1, is the unexplained credit in the books of accounts of the assessee and, hence, required to be added under Section 68 of the Act. Therefore, for Mr. Singh to say that these are inadvertent errors and hence should be ignored, in our opinion, is an argument that is completely misconceived. As indicated above, if the information received (from the investigation wing) was that the accommodation entries, in lieu of cash, were taken in the form of share capital and share premium they could certainly not be linked to unsecured loans received in AYs 2010-2011 and 2011-2012.

9.6. It is pertinent to note that in the objections filed by the assessee, an attempt has been made to explain the purported accommodation entries by stating therein that the advances had been given to the 5 companies adverted to in the order recording reasons which were received back on the dates given in the said order. The assessee also went on to state, in its objections, that the opening balance (as on 01.04.2010) and closing balance (as on 31.03.2011) of the share premium account (Rs. 3,66,16,800/-) and the share capital account (Rs. 24,15,200/-) remained unchanged. In other words, the emphasis was that there was no increase in the share capital or the share premium account, as alleged, or at all. In the order passed by the assessing officer dated 08.10.2018, whereby, the objections of the assessee were rejected; none of this has been dealt with. Therefore, in our view, while the assessing officer may suspect that the taxable income of the assessee escaped assessment, he could not have formed a belief qua the same based on the material which is, presently, on record.

9.7. Therefore, in our opinion, the formation of belief by respondent no.1 that income of the assessee chargeable to tax had escaped assessment, was unreasonable and irrational, as it could not be related to the underlining information; something which is discernible from a bare reading of the order recording reasons."

13. In light of the aforementioned decisions of the Hon'ble Jurisdictional High Court, the contention of the Id. DR that the Assessing Officer has applied his mind while framing assessment order does not hold any water because the application of mind is required while issuing notice u/s 148 of the Act and not during assessment proceedings because the challenge is of the notice for reopening the assessment which when served, sets the law into motion.

14. It is not in dispute that the original return was selected for scrutiny assessment and the assessment was framed u/s 143(3) of the Act, obviously, after scrutinising the return of income qua the details furnished therewith.

15. The Id. counsel for the assessee made a statement at Bar that the balance sheet filed with the return of income clearly showed unsecured loans in liability side and therefore, it cannot be said that the assessee has not disclosed true and material facts in the original return of income.

16. We have carefully gone through the decisions relied upon by the first appellate authority. We find that in none of the decisions the issue was of multiplicity of the entries in the information received by the Assessing Officer which formed the basis for reopening the assessment. In all the decisions relied upon by the Id. DR, the issue was whether the information received amounts to tangible material evidence for reopening the assessment. Whereas the facts of the case in hand relates to the very information itself which contains 11 entries as mentioned elsewhere, where the total amount of escaped income is mentioned at Rs. 2.05 crores which is part of the reasons recorded for reopening the assessment.

17. Considering the totality of the facts in light of the decisions of the Hon'ble Jurisdictional High Court discussed elsewhere, we are of the considered view that the assumption of jurisdiction by issue of notice u/s 148 of the Act is bad in law which makes the assessment order dated 18.12.2018 framed u/s 147 r.w.s 143(3) of the Act void ab initio. Since we have quashed the assessment, we do find it necessary to dwell into the merits of the case.

18. In the result, the appeal filed by the assessee in ITA No. 8094/DEL/2019 is allowed.

The order is pronounced in the open court on 06.08.2021.

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**Customized Notes**

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