IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18921 of 2017

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JAYANT SECURITY AND FINANCE LTD....Petitioner(s)
Versus
ASSISTANT COMMISSIONER OF INCOME TAX OFFICER CIRCLE 1(1)(2)....Respondent(s)
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Appearance :
Mr B S SOPARKAR, ADVOCATE for the Petitioner(s) No. 1
Mr VARUN K.PATEL, ADVOCATE for the Respondent(s) No. 1
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CORAM: HONOURABLE Mr. JUSTICE AKIL KURESHI
and
HONOURABLE Mr. JUSTICE B.N. KARIA
12th February 2018

ORAL ORDER (PER : HONOURABLE Mr. JUSTICE AKIL KURESHI)

Petitioner has challenged a Notice of reopening of the assessment dated 31st March 2017 seeking to reopen the petitioner's assessment for Assessment Year 2010-2011.

2. Brief facts are as under :

2.1 The petitioner is a Company registered under the Companies Act, 1956. For AY 2010-2011, the petitioner has filed return of income on 23rd September 2010 declaring Nil income. Such return was taken in scrutiny by the Assessing Officer. During such assessment, the Assessing Officer also examined certain loans taken by the assessee. The Assessing Officer passed an order of assessment on 8th March 2013 accepting the returned income.

2.1 To reopen such assessment, the Assessing Officer issued the *impugned* notice. In order to do so, he had recorded the following reasons :-

> "This Office has received information from DCIT-1 [1], Bhilaspur [C.G] that you have received advances of Rs. 10,25,50,000/= from M/s. East West Finvest India Limited during the FY 2009-10 relevant to AY 2010-11. Further upon verification, it is found that M/s. East West Finvest India Limited has procured bogus share application money/premium from paper companies of Kolkata and thereafter advanced loans to certain companies/persons/ entities. M/s. East West Finvest India Limited works as entry operator and earn bogus funds to provide advances to the various persons. In this case, you have received Rs.

10,25,50,000/= as loan or deposit from M/s. East West Finvest India Limited during the financial year 2009-10. Further, you have paid interest of Rs. 3,89,473/= and repaid the loan of Rs. 1,45,88,948/= to M/s. East West Finvest India Limited. As per the information, M/s. East West Finvest India Limited is paper concern. Therefore, the advance/loan received by the assessee from M/s. East West Finvest India Limited is bogus loan. In view of this fact, as per information available, M/s. East West Finvest India Limited is paper concern, claim of the loan repayment of Rs. 1,49,78,421/= by you to M/s. East West Finvest India Limited in FY 2009-10 is a bogus transaction. As M/s. East West Finvest India Limited is paper concern, all the transactions made by you with M/s. East West Finvest India Limited is sham transactions.

In view of the above facts and information and keeping in view that you have intentionally mentioned incorrect details in return of income did not made truthful and full disclosure and this being failure on your part, I have therefore, reason to believe that the transaction of

Rs. 11,75,28,421/= made with M/s. East West Finvest India Limited by you is sham transaction, which has escaped assessment, for which your case for A.Y 2010-11 has been reopened under Section 147 of the Income-tax Act."

2.2 The assessee raised objections to the notice of reopening under a communication dated 4th September 2017. Such objections were however rejected by the Assessing Officer by an Order dated 8th September 2017. Hence, this petition.

3. Taking us to the material on record and inviting our attention to the reasons recorded, counsel for the petitioner raised the following contentions :

[a] The reasons recorded do not show escapement of income of the assessee;

[b] The Assessing Officer has not applied his mind while exercising his power for reopening of the assessment. Going by the reasons recorded, he has merely acted on the information supplied to him by the Investigation Wing of the Department.

[c] The entire issue of loans advanced by Messrs. East

West Finvest India Limited was examined by the Assessing Officer during original scrutiny assessment.

3.1 The *impugned* notice is therefore, based on changed opinion. [d] The assessee had disclosed all material facts in the return concerning the loans in question. There was no failure on the part of the assessee to disclose truly and fully all material facts.

4. On the other hand, learned advocate Shir Varun K Patel for the Department opposed the petition contending that :

[a] the Assessing Officer has recorded proper reasons before issuing notice;

[b] These reasons were preceded by his application of mind and processing of information supplied to him, after original assessment was over. There was thus additional material to *prima facie* establish that the loan transactions in question were bogus. [c] The original scrutiny on the issue would revolve around the disclosures made by the assessee. When the disclosures are *prima facie* found to be non genuine,

the scrutiny based on such disclosures would not prevent the Assessing Officer from examining the issue through re-assessment.

[d] At this stage, it is not necessary for the Assessing Officer to establish with certainty that additions would invariably be made in the reassessment proceedings. What is necessary is his bona fide formation of belief that income chargeable to tax has established assessment. The sufficiency of the material on the basis of which he formed such a belief is not open to judicial review.

4.1 Counsel placed heavy reliance on two decisions of Division Bench of this Court in the cases of [i] **Yogendrakumar Gupta v. Income-tax Officer**, reported in [2014] 366 ITR 186 [Guj]; and [ii] **Gujarat Ambuja Exports Limited v/s. Deputy Commissioner of Income-tax, Circle 2[1]**, reported in [2017] 86 Taxmann.com 69 (Guj).

5. We may recall, assessment in the present case was framed after scrutiny, during which time, the

advances made by M/s. East West Finvest India Limited to the assessee came up under consideration. The notice has been issued beyond the period of four years from the end of relevant assessment year. The question of change of opinion as well as failure on the part of the assessee to disclose truly and fully all material facts would therefore be relevant.

6. The reasons recored show that the Assessing Officer had received information from the Investigating Wing in connection with advances of Rs. 10.25 Crores [rounded off] received by the assessee from M/s. East West Finvest India Limited during the FY 2009-10 which is relevant to AY 2010-11. Upon verification, it was found that the said M/s. East West Finvest India Limited was an entry operator and had received bogus share application money/premium from paper companies of Kolkata and thereafter advanced loans to certain entities and companies. M/s. East West Finvest India Limited works as an entry operator and earns bogus funds to provide advances to various persons.

Out of the loan of Rs. 10.25 Crores received by the assessee from M/s. East West Finvest India Limited, repayment of Rs. 1.45 Crores was made. Interest of Rs. 3.89 lakhs was also paid. The Assessing Officer further noted that as per information, M/s. East West Finvest India Limited was a paper concern and the advances/loans received by the assessee from such concern were bogus loans and the entire transactions were bogus and sham transactions. That, on the basis of such materials on record that he formed a belief that the assessee had not made true and full disclosures and the income chargeable to tax as therefore escaped assessment.

7. The reasons thus recorded do not proceed only on the information supplied by the Investigating Wing. The Assessing Officer having applied his mind and processed such information, formed his belief that the income chargeable to tax has escaped assessment. Neither the application of mind, nor the formation of belief that income chargeable to tax has escaped

assessment on the basis of information available at the disposal of Assessing Officer, have to be expressed in any rigid format in the reasons recorded. Hence, as these two essential requirements can be gathered from the reasons recored, the notice for reopening cannot fail on such basis. Division Bench of this Court in case of **Dishman Pharmaceuticals & Chemicals Limited vs. Deputy Commissioner of Income-Tax [OSD]**, reported in [2012] 346 ITR 228 [Guj] made following observations :

> "From the above judicial pronouncements, the following principles can be culled out :
>
> [i] To confer jurisdiction to the Assessing Officer to reopen the assessment under Section 147 of the Income-tax Act beyond four years from the end of the assessment year, the following two conditions must be satisfied (a) that the Assessing Officer must have reason to believe that the income chargeable to tax has escaped assessment; and (b) that the same was occasioned, on account of either failure on the part of the assessee to make a return of his income for that assessment year, or

to disclose fully and truly all material facts necessary for assessment of that year, or to disclose fully and truly all material facts necessary for assessment of that year; [ii] both the above conditions are conditions precedent and must be satisfied simultaneously before the Income-tax Officer can assume jurisdiction to reopen the assessment beyond four years of the end of the assessment year; [iii] such reasons must be recorded and if the reasons recorded by the Assessing Officer do not disclose satisfaction of these two conditions, reopening notice must fail; [iv] there is no set format in which such reasons must be recorded. It is not the language but the contents of such recorded reasons which assumes importance. In other words, a mere statement that the Assessing Officer had reason to believe that certain income has escaped assessment and such escapement of income was on account of non filing of the return by the assessee or failure on his part of disclose fully and truly all material facts necessary for assessment would not be conclusive. Nor absence of any such statement would be fatal, if on the basis of reasons recorded, it can be culled out that there were sufficient grounds for the Assessing Officer to hold such beliefs..”

7.1 We may also refer to the judgment of Division Bench of this Court in the case of **Principal Commissioner of Income-tax, Rajkot v. Gokul Ceramics**, reported in [2016] 241 Taxmann.com 341 [Gujarat], wherein, the following observations were made:-

“9. It can thus be seen that the entire material collected by the DGCEI during the search, which included incriminating documents and other such relevant materials, was alongwith report and show-cause notice placed at the disposal of the Assessing Officer. These materials *prima facie* suggested suppression of sale consideration of the tiles manufactured by the assessee to evade excise duty. On the basis of such material, the Assessing Officer also formed a belief that income chargeable to tax had also escaped assessment. When thus the Assessing officer had such material available with him which he perused, considered, applied his mind and recorded the finding of belief that income chargeable to tax had escaped assessment, the re-opening could not and should not have been declared as invalid, on the ground that he proceeded on the show-cause notice issued by the Excise Department which had yet not culminated into final order. At this stage the Assessing Officer was not required to hold conclusively that additions invariably be made. He truly had to form a bona fide belief that income had escaped assessment. In this context, we may refer to various decisions cited by the counsel for the Revenue.

10. In case of *Central Provinces Manganese Ore Co. Ltd. vs. Income Tax Officer, Nagpur* (*Supra*) the Supreme Court noted that in case of the assessee which had an office in London, this Customs authority had come to know that the assessee had declared very low price in respect of the consignment of Manganese exported by them out of India. After due inquiries and investigations, the Customs authorities found that the assessee was systematically under-voicing the value of Manganese as compared with the prevailing market price. The Income Tax Officer on coming to know about the proceedings before the Customs Collector in this respect issued notice for reopening of the assessment. In the reasons that the Assessing

Officer relied on the facts as found by the Customs Authorities that the assessee had under-voiced goods during export. Under such circumstances, upholding the validity of the notice for reopening, the Supreme Court held and observed as under :-

> “So far as the first condition is concerned, the Income Tax Officer, in his recorded reasons, has relied upon the fact as found by the Customs Authorities that the appellant had under invoiced the goods it exported. It is not doubt correct that the said finding may not be binding upon the income tax authorities but it can be a valid reason to believe that the chargeable income has been under assessed. The final outcome of the proceedings is not relevant. What is relevant is the existence of reasons to make the Income Tax Officer believe that there has been under assessment of the assessee's income for a particular year. We are satisfied that the first condition to invoke the jurisdiction of the Income Tax Officer under Section 147(a) of the Act was satisfied.”

11. In case of *Income Tax Officer vs. Purushottam Das Bangur* (*Supra*) after completion of assessment in case of the assessee, the Assessing Officer received letter from Directorate of Investigation giving detailed particulars collected from Bombay Stock Exchange which revealed earning of share and price of share increased during period in question and quotation appearing at Calcutta

Stock Exchange was as a result of manipulated transaction. On the basis of such information, the Assessing Officer issued notice for reopening of the assessment. The question, therefore, arose whether the information contained in the letter of Directorate of Investigation could be said to be definite information and the Assessing Officer could act upon such information for taking action under Section 147(b) of the Act. In such background, the Supreme Court observed as under:

> "12. Ms. Gauri Rastogi, the learned counsel appearing for the respondents, has urged that the letter of Shri Bagai was received by the Income tax Officer on March 26, 1974 and on the very next day, that is, on March 27, 1974, he issued the *impugned* notice under Section 147(b) of the Act and that he did not have conducted any inquiry or investigation into the information sent by Shri Bagai. Merely because the *impugned* notice was sent on the next day after receipt of the letter of Shri Bagai does not mean that the Income Tax Officer did not apply his mind to the information contained in the said letter of

Shri Bagai. On the basis of the said facts and information contained in the said letter, the Income Tax officer, without any further investigation, could have formed the opinion that there was reason to believe that the income of the assessee chargeable to tax had escaped assessment. The High Court, in our opinion, was in error in proceeding on the basis that it could not be said that the Income Tax Officer had in his possession information on the basis of which he could have reasons to believe that income of the assessee chargeable to tax had escaped assessment for the relevant assessment years. For the reasons aforementioned, we are unable to uphold the impugned judgment of the High Court. The appeal is, therefore, allowed, the *impugned* judgment of the High Court is set aside and the Writ Petitions filed by the respondents are dismissed. No order as to costs.

12. In case of *Income Tax Officer vs Selected Dalurband Coal Co. Pvt. Ltd. (Supra)***,** the assessment was reopened on the basis of the information contained in letter from Chief Mining Officer that the colliery of the assessee had been

inspected and there had been under reporting of coal raised. Upholding the validity of re-opening of assessment, the Supreme Court held and observed as under :-

> "After hearing the learned counsel for the parties at length, we are of the opinion that we cannot say that the letter aforesaid does not constitute relevant material or that on that basis, the Income Tax Officer could not have reasonably formed the requisite belief. The letter shows that a joint inspection was conducted in the colliery of the respondent on January 9, 1967, by the officers of the Mining Department in the presence of the representatives of the assessee and according to the opinion of the officers of the Mining Department, there was under reporting of the raising figure to the extent indicated in the said letter. The report is made by a Government Department and that too after conducting a joint inspection. It gives a reasonably specific estimate of the excessive coal mining said to have been done by the respondent over and above the figure disclosed by it in its returns.

Whether the facts stated in the letter are true or not is not the concern at this stage. It may be well be that the assessee may be able to establish that the facts stated in the said letter are not true but that conclusion can be arrived at only after making the necessary enquiry. At the stage of the issuance of the notice, the only question is whether there was relevant material, as stated above, on which a reasonable person could have formed the requisite belief. Since we are unable to say that the said letter could not have constituted the basis for forming such a belief, it cannot be said that the issuance of notice was invalid. Inasmuch as, as a result of our order, the reassessment proceedings have not to go on we don not and we ought not to express any opinion on the merits."

13. In case of *AGR Investment Ltd. vs. Additional Commissioner of Income Tax & Anr.* (*Supra*)**,** Division Bench of Delhi High Court considered the validity of reopening of assessment where the notice was based on information received from Directorate of investigation that the assessee was beneficiary

of bogus accommodation entries. The Court while upholding the validity of reopening observed that sufficiency of reason cannot be considered in a writ petition. It was observed as under :

> “23. The present factual canvas has to be scrutinized on the touchstone of the aforesaid enunciation of law. It is worth noting that the learned counsel for the petitioner has submitted with immense vehemence that the petitioner had entered into correspondence to have the documents but the assessing officer treated them as objections and made a communication. However, on a scrutiny of the order, it is perceivable that the authority has passed the order dealing with the objections in a very careful and studied manner. He has taken note of the fact that transactions involving Rs.27 lakhs mentioned in the table in Annexure P-2 constitute fresh information in respect of the assessee as a beneficiary of bogus accommodation entries provided to it and represents the undisclosed income. The assessing officer has referred to the subsequent information and adverted to the concept of true and full disclosure of facts. It is also noticeable that there was specific information received from the office of the DIT (INV-V) as regards the transactions entered into by the assessee company with number of concerns which had made accommodation entries and they were not genuine transactions. As we perceive, it is neither a change of opinion nor does it convey a particular interpretation of a specific provision which was done in a particular manner in the original assessment and sought to be done in a different manner in the proceeding under Section 147 of the Act. The reason to believe has been appropriately understood by the assessing

officer and there is material on the basis of which the notice was issued. As has been held in Phool Chand Bajrang Lal (supra), Bombay Pharma Products (supra) and Anant Kumar Saharia (supra), the Court, in exercise of jurisdiction under Article 226 of the Constitution of India pertaining to sufficiency of reasons for formation of the belief, cannot interfere. The same is not to be judged at that stage. In SFIL Stock Broking Ltd. (supra), the bench has interfered as it was not discernible whether the assessing officer had applied his mind to the information and independently arrived at a belief on the basis of material which he had before him that the income had escaped assessment. In our considered opinion, the decision rendered therein is not applicable to the factual matrix in the case at hand. In the case of Sarthak Securities Co. Pvt. Ltd. (supra), the Division Bench had noted that certain companies were used as conduits but the assessee had, at the stage of original assessment, furnished the names of the companies with which it had entered into transactions and the assessing officer was made aware of the situation and further the reason recorded does not indicate application of mind. That apart, the existence of the companies was not disputed and the companies had bank accounts and payments were made to the assessee company through the banking channel. Regard being had to the aforesaid fact situation, this Court had interfered. Thus, the said decision is also distinguishable on the factual score."

13. Learned Single Judge of Madras High Court in case of ***Sterlite Industries (India) Ltd. vs. Assistant Commissioner of Income Tax*** reported in ***[2008] 302 ITR 275 (Mad)*** upheld the notice for reopening which was based on

information from enforcement directorate showing possible inflation of purchases made by the assessee."

8. The question of change of opinion and failure on the part of the assessee to disclose truly and fully all material facts, in the present case are closely connected. Undoubtedly, as noted earlier, the Assessing Officer during the original assessment had examined the transactions. However, such examination would necessarily be on the basis of disclosures made by the assessee in the return filed and during the scrutiny assessment. If the Assessing Officer has information to form a reasonable opinion that *prima facie* the entire transaction itself was sham and bogus, as reference to such transaction during the original assessment and raising certain queries in this respect would not prevent him from reopening the assessment on the principle of change of opinion. As noted, the opinion would be formed on the basis of disclosures. When disclosures are found to be *prima facie* untrue,

the opinion formed earlier would not prevent Assessing Officer from examining the issue. In the present case, as noted, Assessing Officer received additional information after the original assessment was over, on the basis of which he formed a belief that the entire transaction was a sham transaction. At this stage, where the Court is examining the validity of notice of reopening, it is not necessary that the Assessing Officer must have conclusive evidence to hold that invariably additions would be made in the income of the assessee. What is required is the reason to believe that income chargeable to tax as escaped assessment. Sufficiency of the materials in the hand of the Assessing Officer which enabled him to form such a belief would not be examined. A reference in this respect is made to a decision of the Supreme Court in the case of **Asstt. Commissioner of Income-tax v. Rajesh Jhaveri Stock Brokers P. Limited**, reported in [2007] 291 ITR 500.

9. Learned advocate for the Revenue is correct in

drawing our attention to the judgment of this Court in the case of *Yogendrakumar Gupta* [Supra] in which, in somewhat similar background, the question of change of opinion and failure on the part of the assessee to disclose true and full facts came up for consideration. It is undoubtedly true that every case of reopening may have slightly varying facts, giving slightly different colour shade to each situation, nevertheless, the observations made by the Court in the case of *Yogendrakumar Gupta* [Supra] need to be noted. It was the case in which the notice for reopening was based on information made available to the Assessing Officer who formed opinion suggesting that the assessee had obtained accommodation entries in the form of loans and advances from one business marketing company, a Calcutta based company. Relevant observations made by the Bench in paras 18, 19 & 20 read thus-

> 18. As mentioned hereinabove, we had called for the original file, which had revealed new, valid and tangible information supporting Assessing Officer's opinion received from DCIT, Kolkata, based on the material found during the search by the CBI,

where Basant Marketing Pvt. Ltd. is said to be a dummy company of one Shri Arun Dalmia. What has been emphasized by the learned Senior Counsel appearing for the petitioner is that the Assessing Officer had attempted to fill in the gap by terming the amount received from Basant Marketing Pvt. Ltd. as "accommodation entry", which she could not have done without further inquiry/ verification. Yet another contention emphasized by the learned Senior Counsel is that the post notice correspondence made after the reasons recorded could not have added anything which was lacking in the reasons themselves. He urged that in absence of any statement given by any Director of Basant Marketing Pvt. Ltd. stating that the assessee received and obtained accommodation entry in the form of loans and advances, the reasons lack basis. The Director Mr. Dalmia of Basant Marketing Pvt. Ltd. as contended also does not reveal anywhere and, therefore, it is premature on the part of the Assessing Officer to so record the reasons. It is further urged that the affidavit of Rishabh Dalmia stating on oath that the loan transactions with the petitioner are genuine for having been carried out only through cheques, *prima facie* vindicates that the entire exercise is based on suspicion. The entire thrust, therefore, is that issuance of notice is nothing but a fishing inquiry.

19. As discussed at length while adverting to the law, that sufficiency of reasons recorded by the Assessing Officer need not be gone into by this Court. Of course, the Assessing Officer when forms his belief on the basis of subsequent new and specific information that the income chargeable to tax has escaped assessment on account of omission on the part of the assessee to make full and true disclosure of primary facts, he may start reassessment proceedings as fresh facts revealed the nondisclosure full and true. Such facts were not previously disclosed or it can be said that if previously disclosed, they

expose untruthfulness of facts revealed.

20. The Assessing Officer required jurisdiction to reopen under section 147 read with section 148 of the Act, where the information must be specific and reliable. As held by the Apex Court in the case of Phul Chand Bajrang (supra), since the belief is that of the Income-tax Officer, the sufficiency of reasons for forming the belief, is not for the Court to judge but is open to an assessee to establish that there exists no belief or that the belief is not at all a bona fide one or based on vague, irrelevant and nonspecific information. To that limited extent, the Court may look at the view taken by the Income-tax Officer and can examine whether any material is available on record from which the requisite belief could be formed by the Assessing Officer and whether that material has any rational connection or a live link with the formation of the requisite belief. It is also immaterial that at the time of making original assessment, the Assessing Officer could have found by further inquiry or investigation as to whether the transactions were genuine or not. If on the basis of subsequent valid information, the Assessing Officer forms a reason to believe on satisfying twin conditions prescribed under section 147 of the Act that no full and true disclosure of facts was made by the assessee at the time of original assessment and, therefore, the income chargeable to tax had escaped assessment, his belief and the notice of reassessment based on such belief/ opinion needs no interference. In the present case, since both the necessary conditions have been duly fulfilled, sufficiency of the reasons is not to be gone into by this Court. The information furnished at the time of original assessment, when by subsequent information received from the DCIT, Kolkata, itself found to be controverted, the objection to the notice of reassessment under section 147 of the Act must fail. At the costs of in gemination, it needs to be mentioned that at the time of scrutiny assessment, a specific query was

raised with regard to unsecured loans and advances received from the said company namely, Basant Marketing Pvt. Ltd. based at Kolkata. These being the transactions through the cheques and drafts, there would arise no question of the Assessing Officer not accepting such version of the assessee and not treating them as genuine loans and advances. Furnishing the details of names, addresses, PANs, etc. also would lose its relevance if subsequently furnished information, which has been made basis for issuance of notice impugned, concludes that Basant Marketing Pvt. Ltd. is merely a dummy company of one Shri Arun Dalmia, which provided the accommodation entries to various beneficiaries.

21. This Court has examined the belief of the Assessing Officer to a limited extent to inquiry as to whether there was sufficient material available on record for the Assessing Officer to form a requisite belief whether there was a live link existing of the material and the income chargeable to tax that escaped assessment. This does not appear to be the case where the Assessing Officer on vague or unspecific information initiated the proceedings of reassessment, without bothering to form his own belief in respect of such material. We need to notice that the Joint Director, CBI, Mumbai, intimated to the DIT (Investigation), Mumbai. A case is registered against Mr. Arun Dalmia, Harsh Dalmia and during the search at their residence and office premises, the substantial material indicated that 20 dummy companies of Mr. Arun Dalmia were engaged in money laundering and the income-tax evasion. The said entities included Basant Marketing Pvt. Ltd. also. From the analysis of details furnished and the beneficiaries reflected, which are spread across the country, the CIT, Koklata, suspected the accommodation entry related to the assessment year 2006-07 as well, this information has been provided to

> Director General of Income-tax, Kolkata, who in turn, communicated to the Chief Commissioner of Income-tax, Ahmedabad. Further revelation of investigation as could be noticed from the record examined (file) deserves no reflection in this petition. Insistence on the part of the petitioner to provide any further material forming the part of investigation carried out against Dalmias also needs to meet with negation, as the law requires supply of information on which Assessing Officer recorded her satisfaction, without necessitating supply of any specific documents. The proceedings initiated under section 147 of the Act would not be rendered void on nonsupply of such document for which confidentiality is claimed at this stage, following the decision of the Delhi High Court in case of *Acorus Unitech Wireless* (P.) Ltd. (supra). Assumption of jurisdiction on the part of the Assessing Officer is since based on fresh information, specific and reliable and otherwise sustainable under the law, challenge to reassessment proceedings warrant no interference.”

10. Before concluding, we may note that all other observations made are in the context of petitioner's challenge to the notice of reopening. While rejecting the petition, only the question of validity of notice gets concluded. All contentions on merits are kept open.

Resultantly, *writ* petition is dismissed.

[Akil Kureshi, J.]

[B.N Karia, J.]

Prakash