IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM

ITA No.2143/KOL/2024
(Assessment Year: 2013-14)

Anju Daruka 79, N.S.B. Road, P.O. - Raniganj Burdwan, West Bengal, 713347	**Vs.**	**ITO, Ward - 3(1),** Aayakar Bhawan, Opposite Ramkrishna School, P.O. Asansol West Bengal, 713305
(Appellant)		**(Respondent)**

PAN No. ACTPD8028Q

Assessee by	:	S/Shri Somnath Ghosh & Sarnath Ghosh, ARs
Revenue by	:	Shri Sailen Samadder, DR

Date of hearing: 21.03.2025
Date of pronouncement : 01.04.2025

O R D E R

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)"] dated 21.08.2025 for the AY 2013-14.

02. The first issue raised is against the reopening of assessment u/s 147 read with section 148 of the Act on the ground that notice issued u/s 148 of the Act is bad in law and therefore, all subsequent proceedings in terms of said notices are also invalid and bad in law.

03. The facts in brief are that the assessee filed the return of income declared ₹2,02,150/- as total income which was processed u/s 143(1) on 18.12.2013. Thereafter, the case of the assessee was reopened u/s

147 of the Act by issuing notice u/s 148 of the Act on 05.02.2019, after the ld. AO received information form DIT investigation, Kolkata that assessee is a beneficiary of accommodation entries of bogus long term capital gain. The assessee complied with the said notices by filing the return of income on 07.05.2019, declaring income of ₹2,02,150/-. Thereafter, statutory notices along with questionnaire were duly issued and served upon the assessee. The assessee also complied with the said notices. Thereafter during the course of assessment proceedings, the ld. AO observed that the assessee has shown Long Term Capital Gain from sale of 6,400/- equity shares of M/s BSR Finance & Construction Ltd. to the tune of ₹11,87,522/-, which was claimed as exempt. The ld. AO also noted that the assessee has purchased 400 shares off market of M/s Sensitive Merchandise Private Limited in physical form of ₹1 lac vide cheque dated 22.02.2011. Thereafter amalgamation happened with above said company with M/s BSR Finance & Construction Ltd. and assessee was allotted 6,400 equity shares. Thereafter, the ld. AO noted the modus operandi of how the price of the said share went up and finally the ld. AO treated the entire sale proceeds as bogus and added the same u/s 69A of the Act to the income of the assessee thereby making an addition of ₹12,68,923/- besides adding commission at the rate of 0.15% which comes to 1,903/-.

04. In the appellate proceedings, the ld. CIT (A) dismissed the appeal of the assessee though no legal issue was raised in the appellate proceedings.

05. The ld. AR vehemently submitted before us that the reopening of assessment has been made by the ld. AO u/s 147 read with section 148 of the Act after receiving an information from the DIT

Investigation, Kolkata that assessee was a beneficiary of accommodation entries in the form of Long-Term Capital Gain. The ld. AR stated that after receiving the information from the DIT investigation, Kolkata, the ld. AO recorded the reasons u/s 148(2) of the Act, a copy of which is available in page no. 92 of the Paper Book. The ld. AR submitted that in para i) the ld. AO has stated and mentioned the particular of incomes along with the particulars as to ITR filed by the assessee. The AO mentioned in Para ii) about survey action was conducted by DIT(Investigation), Kolkata on various brokers during which the share broker have accepted the role of providing accommodation entries of Long Term Capital Gain in case of penny stock M/s BSR Finance & Construction Ltd. Thereafter, in para iii), the ld. AO noted that the assessee has taken accommodation entries of Long-Term Capital Gain Of ₹11,87,522/- in the scrip of M/s BSR Finance & Construction Ltd. and thereafter, again reproducing the details as mentioned i) to iv) concluded that income chargeable to tax to the extent of ₹11,86,522/- has escaped assessment within the meaning of Section 147 of the Act. The ld. AR stated that the reasons provided by the ld. AO are vague, scanty and ambiguous as no details of transactions entered into by the assessee were mentioned. The details of the parties from whom the payments were received were also not mentioned. The ld. AR submitted that the ld. AO simply reproduced information received from the DIT (Investigation), Kolkata and has not carried out any further verification. The ld. AR stated that this is just borrowed satisfaction on the part of the ld. AO without having recorded any reasons for satisfaction to reopen the assessment. The ld. AR stated that the reopening of assessment is not permissible on the basis of such vague, scanty and ambiguous reasons and therefore, reopening has been made invalidly. In defense of his

arguments the ld. AR relied on the decisions of Hon'ble Delhi High Court in the case of CIT Vs. Insecticides (India) Ltd. (2013) 38 taxmann.com 403 (Delhi) and Commissioner of Income-tax vs. Atul Jain [2008] 299 ITR 383 (Delhi)[23-05-2007]. Further the ld. AR while referring to page no. 91 of the Paper Book which is the approval granted by the PCIT, to reopen the assessment, submitted that it is only mentioned in the approval column as 'yes it is fit case'. Therefore, such approval granted by the ld. PCIT is not valid as he has not recorded his satisfaction to the reasons recorded recorded by the ld. AO as placed before him. Therefore, reopening of assessment based on the said approval is also bad in law. The ld. AR in defence of his arguments relied on the decision of Hon'ble Delhi High Court in the case of Capital Broadways (P.) Ltd. vs. Income-tax Officer [2024] 167 taxmann.com 533 (Delhi)/[2024] 301 Taxman 506 (Delhi)[03-10-2024], wherein Hon'ble Court has held that the Pr. CIT approving the issuance of reopening notice by merely endorsing his signatures on file in routine and mechanical manner by simply writing 'Yes, I am satisfied' is not valid as he is failed to record his concurrence satisfactorily and therefore, is not a valid approval. The ld. AR therefore, prayed that in view of the aforesaid facts and judicial decision, the reopening of assessment may be questioned.

06. The ld. DR has relied heavily on the orders of the authorities below and submitted that the reopening us/ 147 r.w.s 148 of the Act has been made by the AO after receiving information from DIT Investigation, Kolkata and after obtaining approval u/s 151 of the Act. The ld. DR submitted that it is sufficient if the PCIT has perused the documents placed before him and granted the approval on the basis of that by mentioning "yes it is a fit case" as he is not supposed to record a detailed satisfaction. The ld. DR submitted that there is a

hierarchy from bottom to top in the department in which the files are moved placing of the all facts and reasons before higher authorities and only then the authority concerned grants approval / non approval. Likewise, the PCIT has granted the approval after satisfying himself as to the facts place before him which were enough and sufficient for reopening of assessment u/s 147 of the Act. The ld. DR in defence of his arguments relied on the decision in the case of Prem Chand Shaw (Jaiswal) vs. Assistant Commissioner, Circle-38, Kolkata [2016] 67 taxmann.com 339 (Calcutta)/[2016] 238 Taxman 423 (Calcutta)/[2016] 383 ITR 597 (Calcutta)/[2016] 286 CTR 252 (Calcutta)[04-03-2016], Rakesh Gupta vs. Commissioner of Income-tax, Panchkula [2018] 93 taxmann.com 271 (Punjab & Haryana)/[2018] 405 ITR 213 (Punjab & Haryana)[27-04-2018], and Assistant Commissioner of Income-tax vs. Rajesh Jhaveri Stock Brokers (P.) Ltd. [2007] 161 Taxman 316 (SC)/[2007] 291 ITR 500 (SC)/[2007] 210 CTR 30 (SC)[23-05-2007]

07. In the rebuttal the ld. AR submitted that the decisions cited by the ld. DR in the case of Prem Chand Shaw (Jaiswal) vs. Assistant Commissioner, (supra), is not applicable to the facts of the case as in the said decision, the Hon'ble High Court has observed that sanction granted u/s 151(2) of the Act could not be treated as invalid on the ground that that the Addl. Commissioner mechanically granted the approval by affixing signature without recording satisfaction when the reasons on the basis of which sanctioned was sought for could not be assailed. The ld. AR referred to the decision of the co-ordinate Bench in the case of ITO Vs. Shri Anil Kumar Loharua, in ITA No. 1315/Kol/2016 vide order dated 28.08.2019, therein the decision of the Calcutta High Court has been distinguished by the Tribunal. The

other decisions relied upon by the ld. DR are clearly distinguishable on facts and are not applicable.

08. We have heard the rival contentions and perused the materials available on record. The undisputed facts are that the case of the assessee was reopened u/s 147 read with section 148 of the Act after recording reason to believe u/s 148(2) of the Act by the AO. The above reopening was done after the ld. AO received information from the DIT (Investigation) Kolkata that assessee is beneficiary of accommodation entries in the form Long Term Capital Gain. The reasons recorded are available at page no. 42 of the paper book, which has been challenged by the assessee to be vague, scanty and ambiguous. For the sake of ready reference same is extracted below:-

> *"(i) The assessee has filed its return of income for the Assessment Year 2013-14 disclosding total income of Rs.2.02,150/- on 23/07/2013. During the A.Y.2013-14 the assessee has disclosed income from business & profession amount to Rs.2,55,874/- and from other sources at Rs.58,578/-and deduction under Chapter VIA of Rs.1,12,305/-. The assessee has filed its return of Income for the assessment year 2014-15 and 2015-16 disclosing total income of Rs.2,17,940/- and Rs.4,86,060/- respectively. The return of income for the A.Y.2013-14 was duly processed on 18/12/2013 at total income of Rs.2,02,150/- resulting NIL Demand/Refund.*
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> *(ii) Survey actions were conducted by the DIT (Investigation), Kolkata on various hsare brokers during which the share brokers have accepted their role in the entire scheme of providing accommodation entries of bogus LTCG/STCG in case of penny stock "BSR Finance & Construction Limited."*
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> *(iii) From the in-depth analysis of the return filed by the assessee for the A.Y.2013-14, Investigation reports, statements of the share brokers involved, the exist providers, related shell companies, sham transactions along with statement of related persons in the scheme it emerges that the assessee has taken accommodation entry of pre-arranged bogus LTCG of around to Rs.11,87,522/- during the F.Y.2012-13 in the scrip of "BSR FINANCE & CONSTRUCTION LIMITED."*
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> *(iv) Show cause notice for initiation of proceedings u/s 147 was issued on 15/10/2018 for necessary compliance on or before 15/11/2018, but the assessee has failed to comply with the show cause notice.*

(v) On examination of the Return of Income filed by the assessee, it is found that the assessee has disclosed income from business & profession amount to Rs.2,55,874/- and income from other sources amount to Rs.58,578/-in its return of income for the A.Y.2013-14. It is evident from the records that the assessee had claimed exempt income amount to Rs.11,87,522/- for LTCG In its ITR (Schedule El) filed for the A.Y.2013-14. (vi) On the basis of above discussion, I have every reason to believe that the income chargeable to tax has escaped assessment to the extent of Rs.11,87,522/-, coming within the meaning of section 147 read with proviso thereto, by reason of failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. As the time limit for issue of notice as provided u/s 149(b)(iii) is expiring on 31.03.2020, your honour is requested to sanction permission u/s 151 read with proviso thereto to issue notice u/s 148 of the Income Tax Act, 1961 for the A.Y.2013-14."

09. On perusal of the above reasons it is revealed that the ld. AO has only recorded the facts of the assessee as to the return of income and source of income. Thereafter, he noted the information received from the DIT. Thereafter, the ld. AO noted that the assessee is beneficiary of bogus Long Term Capital Gain/ Short Term Capital Gain and has earned ₹11,87,522/- in the script of M/s BSR Finance & Construction Ltd. The ld. AR then concluded that he has reason to believe that the income the income has escaped assessment.

010. In our option, the above reasons are not complete as the details of transactions, such as date of transactions, the person from whom the money has been received and where the transactions have been transacted and how the assessee is beneficiary of bogus Long Term Capital Gain. We find merit in the contention of the assessee that the reopening has been made on the basis of vague reasons as it the reasons mentioned only that the assessee is beneficiary of Long Term Capital Gain of ₹11,87,522/- in the script of M/s BSR Finance & Construction Ltd. and no other details were mentioned and therefore, the reasons recorded were not sufficient as the AO has not recorded his satisfaction and it is,in fact, a case of borrowed satisfaction. The case of the assessee find support from the decision of CIT Vs.

Insecticides (India) Ltd. (supra), wherein the Hon'ble Court in para no. 8 and 9 has observed as under:-

"8. *The Tribunal gave detailed reasons for concluding that the proceedings under Section 147 were invalid. Instead of adding anything to the said reasons, we think it would be appropriate if the same are reproduced: —*

> *"In the case at hand, as is seen from the reasons recorded by the AO, we find that the AO has merely stated that it has been informed by the Director of Income-tax (Inv.), New Delhi, vide letter dated 16.06.2006 that the above named company was involved in giving and taking bogus entries/transactions during the relevant year, which is actually unexplained income of the assessee company. The AO has further stated that the assessee company has failed to disclose fully and truly all material facts and source of these funds routed through bank account of the assessee company. In the reasons recorded, it is nowhere mentioned as to who had given bogus entries/transactions to the assessee or to whom the assessee had given bogus entries or transactions. It is also nowhere mentioned as to on which dates and through which mode the bogus entries and transactions were made by the assessee. What was the information given by the Director of Income-tax (Inv.), New Delhi, vide letter dated 16.06.2006 has also not been mentioned. In other words, the contents of the letter dated 16.06.2006 of the Director of Income-tax (Inv.), New Delhi have not been given. The AO has vaguely referred to certain communications that he had received from the DIT(Inv.), New Delhi; the AO did not mention the facts mentioned in the said communication except that from the informations gathered by the DIT (Inv.), New Delhi that the assessee was involved in giving and taking accommodation entries only and represented unsecured money of the assessee company is actually unexplained income of the assessee company or that it has been informed by the Director of Income-tax (Inv.), New Delhi vide letter dated 16.06.2006 that the assessee company was involved in giving and taking bogus entries/transactions during the relevant financial year. The AO did not mention the details of transactions that represented unexplained income of the assessee company. The information on the basis of which the AO has initiated proceedings u/s 147 of the Act are undoubtedly vague and uncertain and cannot be construed to be sufficient and relevant material on the basis of which a reasonable person could have formed a belief that income had escaped assessment. In other words, the reasons recorded by the AO are totally vague, scanty and ambiguous. They are not clear and unambiguous but suffer from vagueness. The reasons recorded by the AO do not disclose the AO's mind as to what was the nature and amount of transaction or entries, which had been given or taken by the assessee in the relevant year. The reasons recorded by the AO also do not disclose his mind as to when and in what mode or way the bogus entries or transactions were given or taken by the assessee. From the reasons recorded, nobody can know what was the amount and nature of bogus entries or transactions given and taken by the assessee in the relevant year and with whom the transaction had taken place. As already noted above, it is well settled that only the reasons recorded by the AO for initiating proceedings u/s 147 of the Act are to be looked at or examined for sustaining or setting*

aside a notice issued u/s 148 of the Act. The reasons are required to be read as they were recorded by the AO. No substitution or deletion is permissible. No addition can be made to those reasons. Therefore, the details of entries or amount mentioned in the assessment order and in respect of which ultimate addition has been made by the AO, cannot be made a basis to say that the reasons recorded by the AO were with reference to those amounts mentioned in the assessment order. The reasons recorded by the AO are totally silent with regard to the amount and nature of bogus entries and transactions and the persons with whom the transactions had taken place. In this respect, we may rely upon the decision of Hon'ble jurisdictional Delhi High Court in the case of CIT v. Atul Jain [2000] 299 ITR 383, in which case the information relied upon by the AO for initiating proceedings u/s 147 of the Act did indicate the source of the capital gain and nobody knew which shares were transacted and with whom the transaction has taken place and in that case there were absolutely no details available and the information supplied was extremely scanty and vague and in that light of those facts, the Hon'ble Jurisdictional Delhi High Court held that initiation of proceedings u/s 147 of the Act by the AO was not valid and justified in the eyes of law. The recent decision of Hon'ble jurisdictional High Court of Delhi in the case of Signature Hotels (P.) Ltd. (supra) also supports the view we have taken above."

9. *We do not see any reason to differ with the view expressed by the Tribunal. No substantial question of law arises for our consideration. The appeals are dismissed. There shall be no order as to costs."*

011. The Hon'ble Delhi High Court while passing the said order has followed another decision relied on by the assessee in the case of Commissioner of Income-tax vs. Atul Jain (supra), wherein the Hon'ble Court has held that the ld. AO has to record his satisfaction and where the reasons recorded are vague and mechanical, the same are not valid reasons for reopening of assessment. The Hon'ble Court has held as under:-

"Looked at in the light of the decisions placed before us and the law laid down therein, it is necessary to appreciate the information available with the Assessing Officer in the present case. The only information is that the assessees had taken a bogus entry of capital gains by paying cash along with some premium for taking a cheque of that amount. The information does not indicate the source of the capital gains (which in this case are shares). We do not know which shares have been transacted and with whom has the transaction taken place. There are absolutely no details available and the information supplied is extremely scanty and vague. In so far as the basis for the reasons is concerned, even this is absent. The Assessing Officer did not verify the correctness of the information received by him but merely accepted the truth of the vague information in a mechanical manner. The Assessing Officer has not even recorded his satisfaction about the correctness or otherwise of the information or his

satisfaction that a case has been made out for issuing a notice under section 148 of the Act. Read in this light, what has been recorded by the Assessing Officer as his "reasons to believe" is nothing more than a report given by him to the Commissioner of Income-tax. As held by the Supreme Court in Chhugamal Rajpal [1971] 79 ITR 603, the submission of a report is not the same as recording of reasons to believe for issuing a notice. The Assessing Officer has clearly substituted form for substance and, therefore, the action of the respondent falls foul of the law laid down by the Supreme Court in Chhugamal Rajpal [1971] 79 ITR 603 which is clearly applicable to the facts of these appeals.

For these reasons, we are of the view that there is no error in the decision rendered by the Tribunal and no substantial question of law has arises for our consideration. Therefore, the appeals are dismissed."

012. So far as the approval of the ld. PCIT is concerned which is said to be mechanical and without application of mind and sans recording his satisfaction, we note that the ld. PCIT has granted approval by mentioning "yes, it is fit case" then put his signature. In our opinion the said approval is not valid approval as PCIT has not recorded his satisfaction on the basis of facts and proposal place before him by the lower authorities. The case of the assessee is squarely covered by the decision of Hon'ble Delhi High court in the case of Capital Broadways (P.) Ltd. vs. Income-tax Officer (supra), wherein the Hon'ble court has held as under: -

*"**12.** We take note that request for approval under Section 151 of the Act in a printed format (Annexure P-6) was placed before the ACIT, who after according his satisfaction, placed the same before the PCIT. PCIT granted the approval on the very same day. The approval accorded by the ACIT and PCIT in Column No. 11 & 12 are extracted below:-*

"11. Whether the Addl. CIT is satisfied on the reasons recorded by AO that it is a fit Case for the issue of notice u/s 148.

I am satisfied Sd/-

(G.G. Kamei)

Addl. CIT, Range-5, New Delhi

Dated 22.03.2017

12. Whether the Pr. Commissioner is satisfied: On the reasons recorded by the AO that it is a fit case for the issue of notice u/s 148.

Yes I am satisfied Sd/-

P.K. Gupta)

Pr. Commissioner of Income Tax-2,

New Delhi

Dated: 22.03.2017"

13. *The satisfaction arrived at by the concerned Officer should be discernible from the sanction order passed under Section 151 of the Act. However, as may be seen, the approval order is bereft of any reason. There is no whisper of any material that may have weighed for the grant of approval.*

14. *Even the bare minimum requirement of the approving authority having to indicate what the thought process was, is missing in the aforementioned approval order. While elaborate reasons may not have been given, at least there has to be some indication that the approving authority has examined the material prior to granting approval. Mere appending the expression "Yes I am satisfied" says nothing. The entire exercise appears to have been ritualistic and formal rather than meaningful, which should be the rationale for the safeguard of an approval by a high ranking official. Reasons are the link between material placed on record and the conclusion reached by the authority in respect of an issue, since they help in discerning the manner in which the conclusion is reached by the concerned authority.*

15. *This Court in the case of The Principal Commissioner of Income - tax v. Pioneer Town Planners Pvt. Ltd. (2024) SCC OnLine Del 1685/[2024] 160 taxmann.com 652/465 ITR 356 (Delhi) while dealing with an identical challenge of approval, having been accorded mechanically, had held as under:-*

"13. The primary grievance raised in the instant appeal relates to the manner of recording the approval granted by the prescribed authority under Section 151 of the Act for reopening of assessment proceedings as per Section 148 of the Act.

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17. Thus, the incidental question which emanates at this juncture is whether simply penning down "Yes" would suffice requisite satisfaction as per Section 151 of the Act. Reference can be drawn from the decision of this Court in N. C. Cables Ltd., wherein, the usage of the expression "approved" was considered to be merely ritualistic and formal rather than meaningful. The relevant paragraph of the said decision reads as under:-

"11. Section 151 of the Act clearly stipulates that the Commissioner of Income-tax (Appeals), who is the competent authority to authorize the reassessment notice, has to apply his mind and form an opinion. The mere appending of the expression "approved" says nothing. It is not as if the Commissioner of Income-tax (Appeals) has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise appears to have been ritualistic and formal

rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the court is satisfied that the findings by the Income-tax Appellate Tribunal cannot be disturbed."

18. Further, this Court in the case of Central India Electric Supply Co. Ltd. v. ITO [2011 SCC OnLine Del 472] has taken a view that merely rubber stamping of "Yes" would suggest that the decision was taken in a mechanical manner. Paragraph 19 of the said decision is reproduced as under: -

"19. In respect of the first plea, if the judgments in Chhugamal Rajpal [1971] 79 ITR 603 (SC) , Chanchal Kumar Chatterjee [1974] 93 ITR 130 (Calcutta) and Govinda Choudhury and Sons case [1977] 109 ITR 370 (Orissa) are examined, the absence of reasons by the Assessing Officer does not exist. This is so as along with the proforma, reasons set out by the Assessing Officer were, in fact, given. However, in the instant case, the manner in which the proforma was stamped amounting to approval by the Board leaves much to be desired. It is a case where literally a mere stamp is affixed. It is signed by an Under Secretary underneath a stamped Yes against the column which queried as to whether the approval of the Board had been taken. Rubber stamping of underlying material is hardly a process which can get the imprimatur of this court as it suggests that the decision has been taken in a mechanical manner. Even if the reasoning set out by the Income-tax Officer was to be agreed upon, the least which is expected is that an appropriate endorsement is made in this behalf setting out brief reasons. Reasons are the link between the material placed on record and the conclusion reached by an authority in respect of an issue, since they help in discerning the manner in which conclusion is reached by the concerned authority. Our opinion is fortified by the decision of the apex court in Union of India v. M. L. Capoor, AIR 1974 SC 87, 97 wherein it was observed as under:

"27.... We find considerable force in the submission made on behalf of the respondents that the 'rubber stamp' reason given mechanically for the supersession of each officer does not amount to 'reasons for the proposed supersession'. The most that could be said for the stock reason is that it is a general description of the process adopted in arriving at a conclusion.

28.... If that had been done, facts on service records of officers considered by the Selection Committee would have been correlated to the conclusions reached. Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable."(emphasis supplied)."

19. In the case of Chhugamal Rajpal, the Hon"ble Supreme Court refused to consider the affixing of signature alongwith the noting "Yes" as valid approval and had held as under:-

"5. --

Further the report submitted by him under Section 151(2) does not mention any reason for coming to the conclusion that it is a fit case for the issue of a notice under Section 148. We are also of the opinion that the Commissioner has mechanically accorded permission. He did not himself record that he was satisfied that this was a fit case for the issue of a notice under Section 148. To Question 8 in the report which reads "whether the Commissioner is satisfied that it is a fit case for the issue of notice under Section 148", he just noted the word "yes" and affixed his signatures thereunder. We are of the opinion that if only he had read the report carefully, he could never have come to the conclusion on the material before him that this is a fit case to issue notice under Section 148. The important safeguards provided in Sections 147 and 151 were lightly treated by the Income Tax Officer as well as by the Commissioner. Both of them appear to have taken the duty imposed on them under those provisions as of little importance. They have substituted the form for the substance."

20. This Court, while following Chhugamal Rajpal in the case of Ess Adv. (Mauritius) S. N. C. Et Compagnie v. ACIT [2021 SCC OnLine Del 3613], wherein, while granting the approval, the ACIT "This is fit case for issue of notice under section 148 of-has written the Income- tax Act, 1961. Approved", had held that the said approval would only amount to endorsement of language used in Section 151 of the Act and would not reflect any independent application of mind. Thus, the same was considered to be flawed in law.

21. The salient aspect which emerges out of the foregoing discussion is that the satisfaction arrived at by the prescribed authority under Section 151 of the Act must be clearly discernible from the expression used at the time of affixing its signature while according approval for reassessment under Section 148 of the Act. The said approval cannot be granted in a mechanical manner as it acts as a linkage between the facts considered and conclusion reached. In the instant case, merely appending the phrase "Yes" does not appropriately align with the mandate of Section 151 of the Act as it fails to set out any degree of satisfaction, much less an unassailable satisfaction, for the said purpose.

22. So far as the decision relied upon the Revenue in the case of Meenakshi Overseas Pvt. Ltd. is concerned, the same was a case where the satisfaction was specifically appended in the proforma in " Yes, I am satisfied\ Moreover, paragraph 16 of-terms of the phrase the said decision distinguishes the approval granted using the expression "Yes" by citing Central India Electric Supply, which has already been discussed above. The decision in the case of Experion Developers P. Ltd. would also not come to the rescue of the Revenue as the same does not deal with the expression used in the instant appeal at the time of granting of approval.

23. Therefore, it is seen that the PCIT has failed to satisfactorily record its concurrence. By no prudent stretch of imagination, the expression "Yes" could be considered to be a valid approval. In fact, the approval in the instant case is apparently akin to the rubber stamping of "Yes" in the case of Central India Electric Supply."

16. *In the case of Principal Commissioner of Income -tax v. Meenakshi Overseas (P.) Ltd. [IT Appeal No. 651 of 2015,dated 26-5-2017] while reiterating that the*

satisfaction has to be accorded on the reasons recorded by the Assessing Officer that it is a fit case for the issue of such notice, the Court noted that by writing the words "Yes, I am satisfied" the mandate of Section 151(1) of the Act as far as approval of Additional CIT was concerned, stood satisfied. However, we may take note that such finding was arrived at by the Court in light of the fact that Additional CIT addressed a letter to the ITO stating as under:-

"In view of the reasons recorded under Section 148(2) of the IT Act, approval for issue of notice under Section 148 is hereby given in the above-mentioned case, you are, accordingly directed to issue notice under Section 148 and submit a compliance report in this regard at the earliest."

***17.** Such letter sent by the Additional CIT to the ITO clearly reveals that the sanction was accorded after due application of mind and on considering the reasons narrated by the Assessing Officer. However, in the present case, there is no such material to come to the conclusion that PCIT granted approval after considering the reasons assigned by the Assessing Officer. The decision rendered in Meenakshi Overseas (P.) Ltd. (supra), is therefore not applicable to the facts and circumstances of the present case.*

***18.** Dealing with an identical challenge where the competent authority just recorded "Yes I am satisfied", the Madhya Pradesh High Court in the case of CIT v. S. Goyanka Lime & Chemicals Ltd. ITA 82/2012/[2015] 56 taxmann.com 390)/231 Taxman 73 (MP) held as under:-*

"7. We have considered the rival contentions and we find that while according sanction, the Joint Commissioner, Income Tax has only recorded so "Yes, I am satisfied". In the case of Arjun Singh (supra), the same question has been considered by a Coordinate Bench of this Court and the following principles are laid down:-

"The Commissioner acted, of course, mechanically in order to discharge his statutory obligation properly in the matter of recording sanction as he merely wrote on the format "Yes, I am satisfied" which indicates as if he was to sign only on the dotted line. Even otherwise also, the exercise is shown to have been performed in less than 24 hours of time which also goes to indicate that the Commissioner did not apply his mind at all while granting sanction. The satisfaction has to be with objectivity on objective material.

8. If the case in hand is analysed on the basis of the aforesaid principle, the mechanical way of recording satisfaction by the Joint Commissioner, which accords sanction for issuing notice under section 148, is clearly unsustainable and we find that on such consideration both the appellate authorities have interfered into the matter. In doing so, no error has been committed warranting reconsideration."

***19.** The SLP challenging the decision rendered by the Madhya Pradesh High Court was dismissed by the Supreme Court CIT) v. S. Goyanka Lime & Chemical Ltd. [2015] 64 taxmann.com 313/237 Taxman 378 (SC).*

***20.** As explained in the above cases, mere repeating of the words of the statute, mere rubber stamping of the letter seeking sanction or using similar words like "Yes, I am satisfied" will not satisfy the requirement of law. Hence, we are of the firm view that*

PCIT has failed to satisfactorily record his concurrence. The mere use of expression "Yes, I am satisfied" cannot be considered to be a valid approval as the same does not reflect an independent application of mind. The grant of approval in such manner is thus flawed in law.

21. *Hence, for the aforesaid reasons, we are of the view that the approval granted by the PCIT for issuance of notice under Section 148 of the Act is not valid and therefore the impugned notice under Section 148 dated 24.03.2017 cannot be sustained. Accordingly, the impugned notice is set aside.*

013. We also note that in this case the reliance made by the ld. DR in the case of Prem Chand Shaw (Jaiswal) vs. Assistant Commissioner (supra), wherein the Hon'ble Calcutta High Court has held that the sanction granted under section 151(2), when reasons on basis of which sanction was sought for, could not be assailed and the said decision of the Hon'ble High Court has been distinguished by the Tribunal in the case of ITO Vs. Shri Anil Kumar Loharua, in ITA No. 1315/Kol/2016 vide order dated 28.08.2019, wherein the Tribunal vide para no.6 held as under:-

"6. We have heard the arguments of both the sides and also perused the relevant material available on record. In support of the revenue's case on the issue under consideration, the ld. D.R. has relied on the decision of the Hon'ble Calcutta High Court in the case of Prem Chand Shaw (Jaiswal) –vs.- ACIT [383 ITR 597]. He has contended that the said decision of the Hon'ble Jurisdictional High Court is squarely applicable in the present case as it was held by Their Lordships that the mere fact that the Additional Commissioner did not record his satisfaction in so many words should not render invalid the satisfaction granted under section 151(2) of the Act. However, as rightly contended by the ld. Counsel for the assessee, the said case cited by the ld. D.R. is distinguishable on facts, inasmuch as, the assessee in the said case had restricted his challenge to the validity of notice under section 148 only on the ground that sanction under section 151 was not valid and the basis for reasons furnished by the Assessing Officer in the notice under section 148 was never in dispute. Keeping in view this factual position prevalent in the said case, it was held by the Hon'ble Jurisdictional High Court that the mere fact that the Additional Commissioner did not record his satisfaction in so many words should not render invalid the satisfaction granted under section 151(2) of the Act when the reason on the basis of which sanction was sought for could not be assailed. In the present case, the facts involved, however, are materially different, inasmuch as, the validity of reopening of assessment was challenged by the assessee on various grounds by making a detailed submission and the relevant judicial pronouncements in support of the said submission were also cited before the ld. CIT(Appeals). As rightly contended by the ld. Counsel for the assessee, the decision of the Hon'bleCalcutta High Court in the case of the Prem Chand Shaw (Jaiswal) (supra) thus is not applicable in the present case being distinguishable

on facts. On the other hand, the ratio of the judicial pronouncements cited on behalf of the assessee in the submission made before the ld. CIT(Appeals) in support of his case on this issue is squarely applicable and keeping in view the same, we do not find any infirmity in the impugned order of the ld. CIT(Appeals) cancelling the assessment made by the Assessing Officer under section 147/143(3) by holding the same to be invalid on the ground that the required approval under section 151(2) was granted by the concerned ld. CIT without recording her satisfaction. We accordingly uphold the impugned order of the ld. CIT(Appeals) on this issue and dismiss this appeal filed by the Revenue."

014. Considering the above facts and circumstances, we are of the view that the reopening of assessment has been invalidly made on two grounds (1) reasons recorded were vague and scanty and (2) the approval has been granted mechanically and is invalid. Consequently we quash the re-opening of assessment as well as assessment framed by the AO.

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

Order pronounced in the open court on 01.04.2025.

Sd/-	Sd/-
(PRADIP KUMAR CHOUBEY)	(RAJESH KUMAR)
(JUDICIAL MEMBER)	(ACCOUNTANT MEMBER)

Kolkata, Dated: 01.04.2025
Sudip Sarkar, Sr.PS
Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata