आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR

श्री संदीप गोसाईं, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 1356/JP/2019
Assessment Year: 2010-11

Prithvi Raj Singh, 93, Dhuleshwar Garden, Sardar Patel Marg, C-Scheme, Jaipur.	बनाम Vs.	I.T.O., Ward-2(2), Jaipur.
PAN No.: AFEPS 6669 A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Mukesh Soni (CA)
राजस्व की ओर से / Revenue by : Shri Ambrish Bedi (CIT-DR)

सुनवाई की तारीख / Date of Hearing : 20/10/2020
उदघोषणा की तारीख / Date of Pronouncement : 21/12/2020

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

The present appeal has been filed by the assessee against the order of the ld. CIT(A)-1, Jaipur dated 01/11/2019 for the A.Y. 2010-11. Following grounds have been taken by the assessee:

"1. Under the facts and the circumstances of the case and in law, the order dated 01.11.2019 passed by the Ld. CIT(A) u/s 250 of the Income Tax Act, 1961 is perverse, non-speaking, arbitrary and bad in law.

2. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding impugned Order dated 26.12.2017 passed by Ld. AO which is perverse, arbitrary, without jurisdiction and bad in law.

3. Under the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in

a. upholding the impugned proceedings u/s 147 of the Act,

b. upholding the issuance of notice u/s 148 of the Act by assessing officer having no jurisdiction upon assessee.

c. upholding the impugned reasons recorded by the non-jurisdictional AO u/s 147 of the Act.

4. Under the facts and the circumstances of the case and in law, the Ld. CIT(A) is not justified in upholding the impugned addition of Rs. 3,28,35,754/- u/s 50C of the Income-tax Act, 1961.

5. Under the facts and the circumstances of the case and in law, the Ld. CIT(A) has erred:

a. in taking cognizance of the report of the DVO and in considering the computation/valuation made by the ld. DVO in its report,

b. in not considering the objections of the Appellant against Ld. DVO report.

c. in not providing adequate opportunity of being heard to the Appellant.

6. Under the facts and the circumstances of the case and in law, the Ld. CIT(A) has erred in levying interest u/s 234A, 234B and 234C of the Act.

7. The appellant company craves leave to add, amend and modify all or any ground of appeal on or before the date of hearing."

2. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic.

3. Facts in brief are that the assessee is a senior citizen resident, individual aged about 70 years. He is residing at 93, Duleshwar Garden, C-Scheme, Jaipur. According to assessee, as per the residential address of the assessee, the jurisdiction falls upon ITO Ward 2(2), Jaipur. For the year under consideration the assessee filed its return of income u/s 139 of the Income Tax Act ("the Act", in short) on 31.03.2012 in which total income of Rs. 30,88,250/- was declared including capital gain income. Assessee made agreement to transfer two ancestral properties, being land situated at village Kunhadi, Kota (hereinafter referred as 'immovable properties') in FY 2004-05 through agreement for sale for total consideration of Rs. 2,28,65,500/- (sales consideration of one property was Rs. 64,28,000 and of other was Rs. 1,64,37,500/-) which is more than the stamp value of the immovable properties in FY 2004-05. Part consideration as advance in terms of agreement to sales was received FY 2004-05 and thereafter from time to time. However, on account of some dispute relating to title of property and other disputes at various forums, sale deeds were executed in FY 2009-10, though agreement to sale the immovable properties were executed in FY 2004-05.

4. Return of income filed was duly processed u/s 143(1) of the Act. Thereafter, ITO Ward 2(3), Jaipur based on some AIR/CIB information,

A.O. recorded reasons and issued notice u/s 148 of the Act after lapse of almost 6 years. In the impugned reasons, it is alleged that the assessee has not shown the capital gains in his return of income. According to assessee, during the course of assessment proceedings, reasons recorded were not provided and the same were provided during the appellate proceedings. During assessment proceedings, assessee did not response to notice u/s 148(1) of the Act, issued by ITO Ward 2(3), Jaipur. The A.O. transferred files on 06.06.2017 to assessing officer (ITO Ward 2(2), Jaipur), who made addition u/s 50C in respect of deemed consideration and he also denied benefit of cost of acquisition and improvement while assessing the assessee. The AO while passing assessment order referred the matter to DVO for valuation of properties after passing the assessment order dated 26.12.2017 and stated in his impugned assessment order that the assessment order would be modified as per the report of DVO after receipt of the same.

5. Being aggrieved by the order of the A.O., the assessee carried the matter before the ld. CIT(A), who after considering the submissions as well as material placed on record given part relief to assessee on merit and dismissed the grounds of proceedings being without jurisdiction and upholding the impugned addition made u/s 50C of the Act on the basis of

report of Ld. DVO. Against the impugned order of the ld. CIT(A), the assessee has preferred the present appeal before the ITAT by taking the grounds mentioned above.

6. Grounds No. 1 and 2 of the appeal are interlinked and interrelated and relates to challenging the order of the ld. CIT(A) in upholding the assessment order without jurisdiction, therefore, we have decided to adjudicate these grounds by this consolidated order. The ld AR appearing on behalf of the assessee reiterated the same arguments as were raised before the ld. CIT(A) and also relied on the written submissions filed before the ld. CIT(A) as well as before the ITAT. The submissions of the assessee according to the written submissions are reproduced as under:

1. *The permanent account number of the Appellant falls in the jurisdiction of the ITO ward 2(2), Jaipur. However, notice u/s 148 of the Act was issued by ITO Ward 2(3) of the Act after recording impugned reasons to believe. The said notice has been issued by authority having no jurisdiction upon the Appellant; therefore, the impugned proceedings u/s 147 of the Income Tax Act, 1961 ("**Act**" in short) are invalid and void ab-initio.*

2. *The said fact is also supported by the action of transfer of case records by the department during the assessment proceedings itself.*

3. *The Ld. CIT(A) rejected the contention of the Appellant by taking resort to Section 124(3)(a) of the Act, however, it is humbly submitted that protection u/s 124(3)(a) is not available in case of proceedings u/s 148 of the Act. Further, provision of Section 124(3) are in applicable in the instance case, as at the time of issuance of notice u/s 148(1) as well as originally at the time of filing of return of income, jurisdiction u/s 124(1) was no conferred to ITO Ward 2(3), Jaipur as per directions or orders of*

the CBDT, which is evident from jurisdiction chart as well as portal details available in paper book at page no. 122-123, and 120.

4. *Assessee has no choice under the law to choose his/her assessing officer. The jurisdiction under the Act is to be conferred upon in accordance with the law and no in accordance with the wishes or choice of Assessee neither jurisdiction is conferred as per details of AO Code mentioned in ITR by assessee on account of misconception or for bonafide mistake.*

5. *As per the jurisdictional chart notified by CBDT, the residential area of the Appellant falls within the jurisdiction of the ITO Ward 2(2), Jaipur only.*

6. *The consent or waiver of the parties does not give the jurisdiction.* ***[(1) Principal Commissioner of Income Tax II Lucknow vs. Mohd. Rizwan Prop. M/S M.R. Garments Moulviganj Tax appeal No. 100 of 2015 (2) K.A. Wires Ltd vs. Income Tax Officer, ward – 8(3), Kolkata ITA No. 1149/Kol/2019 dated 22.01.2020 (3) S.N. Bhargava v. Income-tax Officer, 3(4), Mathura 147 ITD 306 (Agra – Trib.)]***

7. *Lack or absence of jurisdiction can be challenged at any stages. (****Principal Commissioner of Income Tax II Lucknow vs. Mohd. Rizwan Prop. M/S M.R. Garments Moulviganj Tax appeal No. 100 of 2015****).*

8. *Without prejudice to above, impugned reasons were recorded on the basis of information from sub-registrar or AIR/CIB data which was available with department well before the processing of return u/s 143(1) as well as at the time while notice u/s 143(2) of the Act for verifying return could have been issued. Thus, said information per se is not tangible material for formation of belief to assume jurisdiction u/s 147 of the Act.*

9. *Proceedings were initiated on factually erroneous and non-existing facts that Appellant filed the return but did not show capital gain income as alleged in impugned reasons. In the ITR, capital gain income has been declared. Mentioning of the erroneous and wrong fact that Appellant did not declare capital gain income in his return of income, also establishes that there had not been any examination of material available on record, including the return of income by AO recording reasons. Impugned*

reasons based on non-existing facts shows non-application of mind of authority recording reasons.

10. *The impugned reasons are based on non-existing facts, which are not sufficient to invoke jurisdiction u/s 147 of the Act. Reliance was placed on judgment of Hon'ble Bench in case of Narayan Dutt Sharma available in case compilation.*

11. *The ITO Ward 2(2), Jaipur did not record the reasons u/s 147 of the Act. Further he did not issue notice u/s 148 of the Act. Thus, he simply acted upon the borrowed satisfaction of ITO Ward 2(2), Jaipur, who did not have jurisdiction. Reliance is placed on following decisions:*

*(**Principal Commissioner of Income-tax-5 vs. Shodiman Investments (P.) Ltd. [2018] 93 taxmann.com 153 (Bombay)**)*

Commissioner of Income-tax, Jalandhar v. Smt. Paramjit Kaur [2008] 168 Taxman 39 (Punjab & Haryana)

S.N. Bhargava v. Income-tax Officer, 3(4), Mathura 147 ITD 306 (Agra – Trib.)]

12. *The Ld. PCIT has given mechanical approval in the instance case u/s 151 of the Act which is evident from bare perusal of reasons recorded, there is no application of mind or examination of records by Ld. PCIT, while granting approval u/s 151 of the Act as primary condition of whether jurisdictional assessing officer is recording the reasons was not checked.*

13. *It is a settled position of law that for a valid assumption of jurisdiction, to reassess, the Assessing Officer must have definite & specific information or material which should lead to formation of belief that any income chargeable to tax has escaped assessment whereas it is evident that the Ld. AO has initiated the re-assessment merely on the basis of AIR/CIB information, and nexus of the said information with escaped income was not established as reasons proceeded on factually erroneous facts/non-existing facts only.*

<u>Rebuttal against the arguments of Ld. DR on issue of Section 147 proceedings:</u>

14. *During the hearing, the Ld. DR relying upon the order of CIT(A) has argued that the reasons were not asked by the Appellant during the proceedings which is alleged violation of the judgment of* ***GKN Driveshaft India Ltd. Vs. ITO [2003] 259 ITR 19.***

15. *In this regard it is humbly submitted that expression "****if he so desires****" as used by Hon'ble Apex Court in the said judgment cannot be interpreted in the way that reasons can only be provided to the Appellant when it was asked for as assessing authority are quasi-judicial authority and principle of natural justice and fair play demand, AO should himself provide the reasons and guide the Assessee. To complete the assessment proceedings in fair way, it is necessary to provide the reasons recorded with the Appellant. Reliance in this regard is placed on judgment in case of* ***Mithlesh Kumar Tripathi vs. Commissioner of Income-tax reported at 280 ITR 16*** *and CBDT* ***circular bearing no. 14 (XL-35)*** *dated 11.04.1955, which requires the assessing authority to be best advisor and guide to Assessee. Therefore, even if reasons were not asked by Assessee, this does not authorize AO to not provide the same to Assessee during assessment proceedings. Even otherwise, AO is not authorized proceed to make assessment on non-est and void proceedings as very notice u/s 148 was issued by ITO ward 2(3), having no jurisdiction.*

16. *In addition to the above, when the reasons recorded were provided during the appellate proceedings, then on the bare perusal of the reasons it is evident that reasons are not inconsonance with the law, erroneous and bad in law on the following counts:*

    1. *The said reasons were recorded by incompetent officer having no jurisdiction upon Assessee*

    2. *The information available in AIR/CIB data was already available with the department at the time of original proceedings, however, no proceedings were taken u/s 143(2).*

    3. *Reasons are based on non-existing facts and does not establishes failure to disclose full and truly the information in the return of income furnished by Assessee.*

4. *Reasonable nexus between the information available with material available as well as formation of belief is missing as same is based on erroneous belief.*

5. *Reasons shows non-application of mind*

6. *Approval granted u/s 151 of the Act by Ld. PCIT is mechanical and improper. It does not record satisfaction of Ld. PCIT at all.*

7. On the other hand, the ld DR has relied on the orders of the authorities below and also relied on the following judicial pronouncements:

(i) CIT Vs British India corporation 337 ITR 64 (All)

(ii) Abhishek Jain Vs ITO 405 ITR 1 (Del)

(iii) Hanon Automotive Systems India P Ltd. Vs. DCIT 413 ITR 431.

8. We have heard the ld. Counsels of both the parties and have perused the material placed on record. We have also deliberated upon the decisions cited in the orders passed by the authorities below as well as cited before us and we have also gone through the orders passed by the revenue authorities. From the record, we noticed that the assessee had challenged the notice U/s 148 of the Act issued by the ITO, Ward 2(3), Jaipur, while the case of the assessee falls under ITO Ward 2(2), Jaipur and therefore, on this ground, it was submitted by the ld AR that notice U/s 148 of the Act was issued by the jurisdictional officer,

therefore, the proceedings U/s 147 of the Act by other A.O. are not valid. However, after going through the records, we are in concurrence with the findings recorded by the ld. CIT(A) as we also noticed that the assessee himself had filed original return of income under ITO Ward-2(3), Jaipur which is apparent from the acknowledgement of return of income filed by the assessee. Therefore, the assessee himself submitted their jurisdiction to ITO Ward-2(3), Jaipur by admitting that ITO Ward-2(3), Jaipur was having jurisdiction over the assessee. We also noticed that ITO Ward-2(3), Jaipur had subsequently transferred the case to ITO Ward-2(2), Jaipur who completed the scrutiny assessment U/s 147/143(3) of the Act and even during the assessment proceedings, the assessee had never challenged the jurisdiction of the A.O. and rather participated in the proceedings.

9. As per the provisions of Section 124(3) of the Act, it has categorically been mentioned that no person shall be entitled to call in question the jurisdiction of an A.O., where he had made a return under Sub-Section (1) of Section 139, after expiry of one month from the date on which he was served with a notice under sub-Section (2) of Section 142 or after completion of assessment **whichever is earlier**. In this regard, we also draw strength from the decision relied upon by the ld DR

in the case of **CIT Vs British India corporation 337 ITR 64 (All)** wherein it was held as under:

> *"Section 124 of the Income-tax Act, 1961-Assessing officer- Jurisdiction of- Assessment year 1974-75- Where Income-tax Officer, had jurisdiction when assessment proceedings commenced and a draft assessment order was submitted to IAC, subsequent change in jurisdiction, if any, unless brought to notice of authority concerned, would not in any manner vitiate assessment order passed by such ITO in absence of any objection with regard to lack of jurisdiction by assessee [In favour of revenue].*

The Hon'ble Delhi High Court in the case of **Abhishek Jain Vs ITO (2018) 94 taxmann.com 355 (Delhi)** has held as under:

> *"Section 124, read with sections 68 and 120, of the Income-tax Act, 1961 - Assessing Officer Jurisdiction of (Objections) - Assessment year 2009-10 - Based on 'Annual Information Return' filed by a bank, located in Noida, information was forwarded to Income-tax Officer, Noida regarding cash deposits of certain amount in account of assessee in said bank - On basis of said information, Income-tax Officer, Noida issued notice under section 148 against assessee - After three months, assessee raised an objection stating that assessee was regularly filing returns with Income-tax Officer, Delhi and, accordingly, notice under section 148 issued by Income-tax Officer, Noida was illegal and without territorial jurisdiction Whether in terms of section 124(3)(b) assessee could not call in question jurisdiction of an Assessing Officer after expiry of one month from date of a service of reassessment notice upon him - Held, yes -*

Whether, thus, Income Tax Officer, Noida would not per se lack jurisdiction and reopening notice issued by him against assessee was justified - Held, yes [Paras 19, 20 and 23] [In favour of revenue]

The Hon'ble Madras High Court in the case of **Hanon Automotive Systgems India (P) Ltd. Vs DCIT (2019) 104 taxmann.com 246 (Madras)** has held as under:

"Section 37(1), read with section 147, of the Income-tax Act, 1961 - Business expenditure - Allowability of (Writ jurisdiction) - Assessment year 2011-12 - Assessee-company claimed development and testing charges as revenue expenditure which was allowed in assessment - Later on, assessing authority passed reassessment order adding back said charges as capital expenditure - Whether, since impugned expenditure were, in opinion of assessee, a revenue expenditure but, in opinion of Assessing Authority, same were capital expenditure, issue deserved to be decided on basis of facts by higher Appellate Forums and such difference of revenues opinion cannot become ground to straightaway invoke writ jurisdiction under Article 226 of Constitution of India - Held, yes [Paras 8, 9, 10 and 11] [In favour of revenue]"

10. Even as per the provisions of Section 124(3) of the Act, the issue of jurisdiction cannot be challenged after completion of assessment and as per the facts of the present case, the assessee himself had filed return of income with ITO Ward -2(3), Jaipur who had recorded the reasons for reopening, therefore, it cannot be held that reasons were recorded by

wrong jurisdictional officer. The assessee is estoped from challenging the jurisdiction of the A.O. when assessee himself submitted to the jurisdiction of ITO Ward 2(3), Jaipur. The ld. CIT(A) has thus passed a well reasoned speaking order after evaluating all the facts and legal proposition on this ground, therefore, we find no reason to interfere into or deviate from the findings so recorded by the ld. CIT(A). Hence, we uphold the same. Both these grounds of assessee stand dismissed.

11. Ground No. 3(a) to 3(c) of the appeal raised by the assessee relates to challenging the order of the ld. CIT(A) in upholding the proceedings U/s 147 of the Act. The ld AR appearing on behalf of the assessee has submitted that the ld. CIT(A) has erred in upholding the proceedings U/s 147 of the Act, as the reasons recorded in the present case was by non-jurisdictional A.O., therefore, the said A.O. had no jurisdiction upon the assessee. The ld AR has also relied upon the written submissions submitted before the ld. CIT(A), which is as under:

1. *At the outset, it is submitted that the Ld. AO has mechanically invoked the provision of the Section 148/147 of the Act and therefore the very assumption of jurisdiction is bad in law. For initiation of the reassessment proceedings under Section 147 of the Act, the Assessing Officer should have "reason to believe" that income chargeable to tax has escaped assessment for the assessment year under consideration. The word 'reason to believe' means belief which prompts the Assessing Officer to invoke Section*

147 of the Act and the belief should be based on relevant and tangible material and not arbitrary or irrational. The belief must be held in good faith and cannot be merely pretense. The Appellant humbly submits that the reassessment proceedings initiated vide said notice u/s 148 of the Act are illegal and untenable on account of the following reasons:

- ***Absence of "reasons to believe"***

2. *The foremost condition precedent for a valid initiation of reassessment proceedings u/s 147 of the Act is that the "Assessing Officer must have 'reason to believe' that any income chargeable to tax has escaped assessment for any assessment year". It is submitted that the "reasons to believe" refer to the belief which prompts the Assessing Officer to invoke Section 147 of the Act in a particular case and this belief needs to be based on some credible evidence and not arbitrary and irrational. There needs to be a rational and intelligible nexus between the reasons and the belief. However, in the present case the said foremost nexus is ex-facie absent as evident from bare perusal of the Notice u/s 148 of the act dated 30.03.2017 wherein no reasons are mentioned and merely it is stated that the Ld. AO has reasons to believe that income of the Appellant has escaped assessment.*

3. *However, no basis or reason has been disclosed in the notice issued u/s 148 of the Act as to why and how the adverse inference has been drawn against the Appellant and what has given the grounds of belief that the Appellant has indulged into the transaction which has resulted in income that has escaped income. Hence, in absence of reasons to believe there lays no foundation for the formation of the requisite belief for initiation of valid*

reassessment proceedings u/s 147 of the Act. The Appellant in support of the aforesaid objections places reliance on following judicial pronouncements for this purpose:

Commissioner of Income-tax, Delhi vs. Kelvinator of India Ltd. [2010] 320 ITR 561 (SC)

"AO can reopen the assessment only if there is tangible material to come to the conclusion that there is escapement of income. Reopening cannot be done on change of opinion only. The AO does not have power to review and has power only to reassess."

Oriental Insurance Company vs. Commissioner of Income Tax (2016) 130 DTR (Del) 64

"It is well established that reasons to believe that income had escaped assessment is a necessary precondition for the AO to assume jurisdiction. Clearly it would be difficult to sustain that this precondition is met if such reasons to believe that income of an assessee has escaped assessment are based on palpably erroneous assumptions. The reason to believe must be predicated on tangible material or information."

4. *In view of the aforesaid it is submitted that the very foundation/basis adopted for issuing the impugned notice u/s 148 of the Act dated 30.03.2017 is illegal and bad in law as no reasons were recorded in the said notice while initiating the assessment/re-assessment proceedings u/s 148 of the Act.*

- ***'Reason to believe' versus 'reason to suspect'***

5. *In assessment order, it has been stated that the proceedings in the case of the Appellant have been initiated on the basis of the information obtained from AIR/CIB that the Appellant has sold immovable properties in FY 2009-10 at Rs. 3,59,76,254/- (actual sales consideration is Rs. 2,28,65,500) where stamp value of the property is Rs. 5,56,91,254/-. Merely on the basis of the information of AIR/CIB, the Ld. AO formed an opinion that the*

Appellant has not computed capital gains as per Section 50C of the Act and therefore, income of the Appellant has escaped assessment. The so called reasons stated by the Ld. AO in the assessment order are at the most in the nature of "grounds of suspicion" which are not sufficient to invoke jurisdiction u/s 147 of the Act. The suspicion may be sufficient, be starting point to make an enquiry but not sufficient for re-opening of a case and assuming jurisdiction for re-assessment. The end result of an enquiry based on suspicion may or may not be formation of requisite belief for re-opening. However, in no case jurisdiction u/s 147 of the Act can be invoked for making the enquiry for formation of requisite belief. If this is permitted in law, all assessments would be vulnerable to re-assessment based on sheer suspicion. The Appellant in support of the aforesaid objections places reliance on following judicial pronouncements for this purpose

Ragubar Mandal Harihar Mandal V/s The State of Bihar (1957)8 STC 770

"There should be something more than bare suspicion to support the assessment"

Om Parkash Jindal &Anr. Vs. Union Of India &Ors. (1976) 104 ITR 389 (P&H)

"Has reason to believe" means there are grounds for the necessary belief and a mere suspicion would not suffice"

6. *Further, in the absence of any particular information/material relating particularly to the Appellant, any assumptions made against the Appellant are perverse. Thus, alleged reasons are only 'reasons to suspect' as to whether the Appellant has income being capital gains from the sale of immoveable properties, escaped assessment or not. In view of this, there is no existence of any 'reason to believe' that any income chargeable to tax has escaped*

assessment, which is condition precedent for initiating proceeding u/s 147 of the Act. The Appellant in support of the aforesaid objections places reliance on following judicial pronouncement for this purpose:

Income Tax Officer & Ors. Vs. Lakhmani Mewal Das (1976) 103 ITR 437(SC)
"The reason must be held in good faith. It cannot be merely a pretence. It is open to the Court to examine whether the reasons for the formation of the belief have a rational connection with or a relevant bearing on the formation of the belief and are not extraneous or irrelevant for the purpose of the section…….The words of the statute are "reason to believe" and not "reason to suspect".

7. *In view of the above, at most there can be reasons to suspect on the basis of the information obtained by the Ld. AO trough AIR/CIB and thereafter enquiry could have been initiated, which is general in nature and initiating proceedings u/s 147 of the Act on the basis of suspicion is not permissible under the law and the same cannot constitute 'reason to believe' that income chargeable to tax of the Appellant has escaped assessment'.*

- ***Provisions of Section 147/148 cannot be invoked for making fishing and roving inquiries***

8. *It is submitted that for invoking the provisions of Section 147 of the Act there should be definite information/basis for the formation of requisite belief before the initiation of the proceedings. Furthermore, provisions of Section 148(2) of the Act states that before issuing notice under Section 148 the AO is required to record reasons for the basis of formation of belief that, income chargeable to tax has escaped assessment. However in the case of the Appellant, no reasons were recorded in the notice u/s 148 of the Act on the basis*

of which the Ld. AO has initiated the reassessment proceedings. In other words, reassessment proceedings cannot be taken up merely for the purpose of making fishing and roving inquiries. For the said view, the Appellant places reliance on the following judicial pronouncements:

Bakulbhai Ramanlal Patel vs. Income Tax officer (2011) 56 DTR (Guj) 212

"Entire tenor of reasons recorded indicates on the basis of some unsubstantiated and vague information, the AO has reopened the assessment for the purpose of making a roving and fishing inquiry to verify as to whether any income has in fact escaped assessment… Since the reasons recorded do not reflect the requisite belief that income chargeable to tax has escaped assessment, the basic requirements of s. 147 of the Act have not been satisfied."

Bhola Nath Majumdar vs. Income Tax Officer & Ors (1996) 221 ITR 608 (Gau)

"The purpose of Section 55A is not to arm the ITO for making a roving fishing inquiry for finding out materials for reopening or revising a completed assessment"

S.R. Batliboi & Co. Vs. Director Of Income Tax (Investigation) (2009) 315 ITR 137(Del)

"Department cannot make fishing or roving enquiry to initiate proceedings against all the companies which are clients of the petitioner"

9. *Further, it is a settled position of law that for a valid assumption of jurisdiction, to reassess, the Assessing Officer must have definite & specific information or material which should lead to formation of belief that any income chargeable to tax has escaped assessment whereas it is evident that the Ld. AO has initiated the re-assessment merely on the basis of AIR/CIB information, as mentioned in the assessment order. It should be noted that it is held in various judgements that merely on the basis of the AIR*

information allegation cannot be alleged that the Appellant has income that has escaped assessment. The information of AIR could be basis of 'reasons of suspicion' but mere information of AIR cannot be called as 'reasons to believe'. For the said view reliance is placed on the following judgements:

Sh. Ashwani Kumar v. Income Tax Officer (ITA No. 129 (Asr)/2015)

*"The facts are not disputed. A bare perusal of the reasons recorded for issuance of notice u/s 148 of the Act, shows that the only material available before the AO was the AIR information of the assessee having deposited an amount of Rs.11.60 lakhs in his savings bank account. Remarkably, the reasons recorded did not even mention the bank in which such savings bank account was maintained. The assessee, as available from the first page of the assessment order, was issued a notice u/s 148 of the Act, in pursuance to the aforesaid reasons. The assessment order under section 143(3) of the Act is dated 25.03.2013. The assessee had filed the return of income on 05.10.2005 and it had been stated in response to the notice u/s 148 of the Act that this return be treated as having been filed in response to this notice. In 'Bir Bahadur Singh Sijwali' (supra), like in the present case, the reasons Assessment year: 2005-06 recorded indicated that cash deposits had been made in the bank account of the assessee. The Tribunal held that the mere fact that the deposits having been made in a bank account does not indicate that these deposits constitute an income which has escaped assessment. It was observed that the reasons recorded did not make out a case that the assessee was engaged in some business and the income from such a business had not been returned by the assessee. In the case at hand also, the reasons recorded do not contain any such recital. The Tribunal held that the factum per se, of deposits in the bank account of the assessee could not be made the basis for holding the view that income had escaped assessment, over-looking that the sources of the deposits need not necessarily be the income of the assessee; and that as such, the reasons recorded were not sufficient to believe escapement of income; that rather, they were reasons to suspect escapement of income, which was not enough for issuance of a notice u/s 148 of the Act (**Para 7**)*

"In view of the above, finding merit in the grievance raised by the assessee by way of Ground no.1, the reasons recorded by the AO

*for issuance of notice u/s 148 of the Act are held to be invalid, being reasons not sufficient to believe escapement of income, based on vague information. All the proceedings pursuant thereto, including the Assessment year: 2005-06 assessment order dated 25.03.2013 and the impugned order dated 29.01.2015 are thus annulled and cancelled. Accordingly, all the other issues on merits are rendered academic and infructuous" (**Para 9**)*

Similar view was taken in the case of:

Surinder Mohini Bawa vs. Income Tax Officer ITA No. 649(Asr)/2015

Ravindra Deo Tyagi vs. Income Tax Officer ITA Nos. 123 to 125/LKW/2017

10. *Further, it should be noted that the Ld. AO issued notice u/s 142(1) of the Act before issuing Notice u/s 143(2) of the Act, which itself is invalid. Therefore, the Appellant objects the validity of the impugned assessment on this ground also.*

11. *In view of the aforesaid submissions, it is humbly submitted that the issuance of notice u/s 148 of the Act in the absence of any reasons to believe and without providing the copy of reasons recorded to the Appellant is per se illegal and without jurisdiction and accordingly proceedings u/s 147 of the Act is invalid.*

12. On the other hand, the ld DR has relied on the orders of the authorities below and also relied on the following judicial pronouncements:

(i) Ankit Agrochem P Ltd. Vs JCIT 253 Taxmann 141 (Raj)

(ii) Calcutta Discount Co. Ltd. 411 ITR 191 (SC)

(iii) GKN Driveshaft (India) Ltd. Vs ITO (2002) 259 ITR 19 (SC)

13. We have heard the ld. Counsels of both the parties and have perused the material placed on record. We have also deliberated upon the decisions cited in the orders passed by the authorities below as well as cited before us and we have also gone through the orders passed by the revenue authorities. Although, we have dismissed grounds No. 1 and 2 of appeal raised by the assessee by holding that there was no fault of jurisdiction in the notice issued by the A.O. U/s 148(1) of the Act, however while dealing with the present grounds and after evaluating the facts of the present case, we found that the reasons recoded by the ITO Ward-2(3), Jaipur are based on wrong and incorrect facts while recording the said reasons it was categorically mentioned by the A.O. that the assessee had not declared capital gain income in his returns. However, this fact goes to the very root of the matter as on the basis of these facts, the A.O. had formed the basis of recording reasons U/s 147 of the Act.

14. After having gone through the return filed by the assessee, we found that the assessee had declared capital gain income in return which clearly shows that there is non-application of mind on the part of the A.O. while recording the reasons as he did not consider the return furnished by the assessee wherein capital gain income has been shown. Thus, non-existing facts/basis does not lead to formation of belief U/s 147 of the Act

which is a condition precedent U/s 147 of the Act as there is no rational nexus of material/information available with formation of belief. Thus, according to us, no valid belief can be formed on the basis of incorrect/non-existing facts U/s 147 of the Act otherwise it would be then difficult to interpret what weighed with the mind of the A.O. while recording reasons as the reasons recorded cannot be modified or supplemented by further explanation. While reaching to the said conclusion, we find strength from the principle laid down by the various courts in different cases such as in the case of ***Commissioner of Income-tax, Jalandhar v. Smt. Paramjit Kaur [2008] 168 Taxman 39, Narain Dutt Sharma Vs ITO (2018) 91 taxmann.com 463 (JP Trib) PCIT Vs Shodiman Investments (P) Ltd. (2018) 93 taxmann.com 153 (Bom) & ors, Ingram Micro (India) Exports (P) Ltd. Vs DCIT (IT) (2017) 78 taxmann.com 140 (Bom), Hintustan Level Ltd. Vs R.B. Wadkar, Asstt. CIT (2004) 268 ITR 332, PCIT Vs RMG Polyvinyl (I) Ltd,. (2017) 83 taxmann.com 348 (Delhi).***

Therefore, the findings recorded by the ld. CIT(A) supporting the reasons on the ground of sufficiency of reasons, according to us, are misconceived and cannot be sustained.

15. We have also considered the decisions relied upon by the ld DR but the same are distinguishable on the facts and even rendered in different context while dealing with the relevant facts and legal issues under consideration of courts/Tribunal, therefore, the same are of no help to the department as far as the facts of the present case are concerned. Therefore, according to us, the assumption of jurisdiction U/s 147 of the Act by the A.O. is not tenable on the basis of our above reasoning. Hence, we quash the proceedings initiated U/s 147 of the Act.

16. Grounds No. 4 and 5 (a) to 5(c) of the appeal raised by the assessee are interrelated and interlinked and relate to challenging the order of the ld. CIT(A) in upholding the additions U/s 50C of the Act, therefore, we have decided to adjudicate these grounds by this consolidated order. The ld AR of the assessee reiterated the same arguments as were raised before the ld. CIT(A). Ld AR further submitted that ld. CIT(A) was not justified in upholding the impugned addition as the ld. CIT(A) had erred in taking cognizance of the report of the DVO in considering the valuation made by the DVO in its report. It was further submitted that ld. CIT(A) also erred in not considering the objections of the assessee against the report of the DVO and not providing adequate opportunity of being heard to the assessee. The ld AR also relied on the

written submissions filed before the ld. CIT(A) as well as before the ITAT. The submissions of the assessee according to the written submissions before this Bench are reproduced as under:

01. *Agreement to sale two ancestral immovable properties were executed in FY 2004-05 and due to some dispute, sale deeds were executed in FY 2009-10. The Ld. CIT(A) took the stamp duty valuation as on the date of sale deeds given by Ld. DVO without appreciating the existing of prior agreements and disputes and rather giving factually incorrect findings as to existing of prior agreements, which fact is duly mentioned in sale deed(s) and supported by agreement to sale.*

02. *Denial of benefit of proviso to Section 50C on the basis that advance payment of consideration was received in cash is also not justified as when the agreement to sales were executed, there was no restriction of acceptance of part consideration in cash. Reliance is placed on Hon'ble Tribunal judgment in case of* ***Indexone Indexone Tradecone (P.) Ltd. vs. Deputy Commissioner of Income-tax, Central Circle- 2, Jaipur IT Appeal No. 470 (JP.) of 2018*** *as requirement of receipt of advance payment/consideration by cheque would apply prospectively on agreement executed after the amendment brought in Section 50C(1) as at the time of receiving consideration assessee could not foresee the requirement of payment by cheque through subsequent amendment in law.*

03. *Further, the Ld. CIT(A) as well Ld. AO has given literal interpretation to the provisions of Section 50C of the Act as against the object and intent of introduction of Section 50C of the Act. [K.R. Palani Swamy and others reported at (2008) 219 CTR (Mad.) 323 : (2008) 13 DTR (Mad.) 121]*

04. *The judgment of K.P. Varghese v. ITO ([1981] 131 ITR 597/ 7 Taxman 13 (SC) is also applicable while interpreting the provision of Section 50C(1) and requirement of understatement of property to defraud revenue is required to be read into while applying provision of Section 50C(1) regarding deemed consideration for computing capital gain liability.*

05. Instead of literal interpretation, purposive interpretation should be applied, accordingly, the provisions could not be applied to bonafide and honest transactions. In the Appellant's case there is no allegation or findings of understatement of consideration or receipt of consideration more than what stated in sale deeds. Further, no adverse inference has been taken in the case of buyer(s), which proves that bonafides of transactions remain undisputed.

***06.** Appellant was ready to sale the property and receive advance payment of consideration in whatever mode on account of disputed nature of property, thus, this aspect should not be used against the Appellant to deny the benefit.*

***07.** The facts of the Appellant case are very much similar to facts of Sanjeev Lal v. Commissioner of Income-tax, Chandigarh [2014] 365 ITR 389 (SC) and also the judgment of Hon'ble ITAT Vijag bench **in the case of Moole Rami Reddy vs. ITO ITA No. 311/Vizag/2010** and M/s. Lahiri Promoters Visakhapatnam vs. ACIT, Circle-1(1) Visakhapatnam I.T.A. No.12/Vizag/2009.*

***08.** It is humbly submitted that where agreement to sale is entered and part consideration is received as advance payment, and later sale deed is executed/registered on account of reasons beyond the control of the assessee or not, then transfer of property shall be said to have taken place in the year in which the agreement to sale was entered for the purpose of applying Section 50C(1) and taking stamp valuation.*

Brief rebuttal of the Appellant against the arguments of Ld. DR on issue of addition of Rs. 3,28,35,754/- u/s 50C of the Act.

09. During the hearing, the Ld. relied upon findings of CIT(A) in the appellate order, wherein existence of prior agreement to sell with respect to the properties has merely been doubted and alleged that since the part consideration was received in cash therefore, the appellant is not entitled for benefit of adopting stamp valuation as on date.

10. In this regard, it is humbly submitted that the existing of prior agreement to sale is very much evident from sale deeds executed

and agreement to sale given. It is pertinent to mention here that during the reassessment proceedings, the Ld. AO never asked to the Appellant to submit the agreement to sale. Thus, the Appellant was not provided an opportunity to furnish the same, accordingly, it were submitted for verification by Ld. CIT(A).

11. *Further, on the bare perusal of page no. 2 of the sale deed i.e. "Vikray Patr" enclosed at page no. 25 of paper book, it is clearly mentioned that the properties were sold to Shri Rameshwar Prasad Shrangi residing at 1-B, Kotadi, Gumanpura Road, Near Congress Office, Gumanpura, Kota, Raj through prior agreement dated 18.09.2004 and 19.07.2005 whereby total amount of Rs. 11 Lakh received**,** which is further supported by agreement to sale agreements available at page no. 52-54, 55-56. Similarly, for another sale deed available at page no. 18-24 (relevant page No. 19), clearly mentions fact of dispute being resolved through court order dated 18.08.09 and prior agreement to sale in subsequent para. Thus, consideration of properties was fixed in FY -2004-05 itself.*

12. *The Ld. CIT(A), at page no. 52-53 of its order also recorded an incorrect finding that there is no mention of any prior agreement to sell in the deed despite that the reference of prior agreement is clearly mentioned at page no. 2 of sale deed. Further doubting on existence of agreement to sale is no justified as no addition can be sustained merely on suspicion. Further, this fact is undisputed that Appellant received advance payment being part consideration totaling to Rs. 11 Lakh in FY 2004-05 and 2005-06 itself, thus, merely cash was received and agreement to sale was enclosed along with submission before CIT(A) cannot be ground to sustain addition.*

13. *With respect to the issue of receipt of cash advance payment, it is humbly submitted that requirement of receipt of consideration in cheque only was made effective later by inserting proviso to Section 50C and at the time of execution of agreement to sale, there was no such restriction for receiving advance payment in cash at the time of fixation of consideration, thus, having regard to this bench judgment in case of* ***Indexone Tradecone (P.) Ltd. vs. Deputy Commissioner of Income-tax, Central Circle- 2, Jaipur IT Appeal No. 470 (JP.) of 2018,*** *the said basis is not justified to*

deny benefit of taking stamp duty valuation considering DLC rates of FY 2004-05 for the purpose of section 50C, thus, return filed by Appellant deserves to be accepted.

I. Written Submissions on issue of taking cognizance of report of DVO, considering the computation/valuation made by the Ld. DVO in its report, not considering the objections of the Appellant against Ld. DVO report and not providing adequate opportunity of being heard to the Appellant.

14. *During assessment, the Appellant objected to stamp valuation as on the date of sale deed by Ld. AO on account of two factors, first disputed property, second, prior agreement to sale. The Ld. AO passing the impugned Order and rejected the explanation of the Appellant arbitrarily by saying that there is no provision in the law to consider stamp duty as on date of agreement. The Ld. AO referred the matter to DVO after passing of impugned assessment order, therefore making incomplete assessment order which is not permissible under the law.*

15. *The receipt of DVO report post assessment and assessing the Appellant basis that report is itself nullity in the eyes of law as there is no provision in the income tax law, which provides passing of provisional assessment order and thereby extending the time limit which is otherwise not available to Assessing Officer. The appellant places reliance on Para No. 9 and 10 of judgment in case of* ***Darshan Buildcon vs. Income-tax Officer [2019] 111 taxmann.com 12 (Gujarat)****, wherein Hon'ble Gujrat High Court held that there is no provision in the income tax law to make provisional assessment subject to DVO report. Thus impugned assessment order making addition u/s 50C is invalid and bad in law on this ground also. Thus, same deserves to be quashed.*

16. *Thus, Ld. CIT(A) was no justified in taking cognizance of DVO report based on invalid reference under the law.*

17. *Without prejudice to above, DVO report dated 20.04.2018, is cryptic one as the DVO has merely accepted the stamp value given by the sub registrar as on the date of sale deed, without considering and disposing the objections of the Appellant that properties were*

disputed and prior agreement to sales were executed by the Appellant. Further no fair value has been determined in DVO report, no comparable sale instances relied upon, no correct method applied to determine fair value, no adequate opportunity of being heard given. The information/ documents relied upon by the Ld. DVO have not been confronted and/ or provided to the Appellant.

18. *DVO report makes the valuation on the basis of stamp valuation only which is not correct as far as the purpose of reference to determine fair valuation as on the date of agreement in respect of disputed properties was the main intention of making reference to DVO. Further, very purpose of reference is defeated is stamp valuation is mechanically applied in valuation proceedings. To support contention, reliance is placed on judgment of Hon'ble Kolkata Tribunal in case of* ***Chandra Bhan Agarwal v. Additional Commissioner of Income-tax, Range-31, Kolkata IT APPEAL NO. 1778 (KOL.) OF 2009,*** *wherein valuation merely on the basis of stamp value was not considered appropriate to justify addition u/s 50C of the Act.*

19. *Without prejudice to above, upon receipt of notice from DVO, the Appellant sought time to file its objections as notice was received after date of hearing mentioned in the said notice and details, the same was not allowed. Further, objections of the Appellant filed on 30.04.2018 wherein opportunity of person hearing was also sought, but the same was not granted. Thus, these aspects and objections, were also not considered neither by the Ld. DVO nor by Ld. CIT(A), therefore, there has been violation of principle of natural justice and accordingly, no adequate opportunity of being heard was given.*

20. *In view of the above, Ld. CIT(A) was not justified in sustaining the impugned addition based on invalid DVO report and thus, the same deserves to be deleted.*

17. On the other hand, the ld DR has relied on the orders of the authorities below.

18. We have heard the ld. Counsels of both the parties and have perused the material placed on record. We have also deliberated upon the decisions cited in the orders passed by the authorities below as well as cited before us and we have also gone through the orders passed by the revenue authorities. After evaluating the facts, we found that the A.O. passed ***provisional order*** of assessment after making reference to the DVO which according to us is not allowed as per the scheme of the Act as there is no provision in the law to pass provisional assessment order subject to receipt of DVO report. In this respect, we draw strength from the decision of Hon'ble Gujrat High court relied upon by the ld AR in the case of **Darshan Buildcon vs ITO (2019) 111 taxmann.com 12 (Guj)** wherein it was held as under:

> *"9. As can be seen from the assessment order dated 31.03.2014 made under section 143(3) of the Act, the Assessing Officer has recorded thus:*
>
> *"The assessee has shown profit from construction at very higher scale by showing lower cost of construction to take benefit of exempted income U/s. 80IB(10) of the Income Tax Act. Hence, a reference it made to District Valuation Officer to determine the cost of construction. Since, report have not been received from the District Valuation Officer till date, the assessment is finalized accepting the cost of construction. On receipt of the valuation report action will be taken if found necessary".*
>
> *In the opinion of this court, the Income Tax Act does not contemplate an incomplete assessment as has been sought to be done in*

this case, namely the Assessing Officer firstly forms an opinion that the construction is unvalued and, therefore, refers the value to the District Valuation Officer, but, in view of the fact that the assessment was getting time-barred, proceeds to make the assessment on the basis of available material, without rejecting the books of account, reserving a right to take further action upon receipt of the report. Not only that, despite forming the opinion that lower cost of construction has been Shown to get the benefit of exempted income, the Assessing Officer does not make the assessment in the manner provided in section 144 of the Act, but accepts the return of income as filed by the assessee.

10. Thus, in effect and substance, the Assessing Officer sought to provisionally assess the petitioner which is not contemplated under the Income Tax Act, 1961. The Assessing Officer, while framing the assessment, may either accept the cost as given by the assessee or reject the same and make a best judgment assessment, but there is no provision under the Act which permits the Assessing officer to make a provisional assessment subject to the report of the District Valuation Officer."

19. Although, the ld DR has submitted that by making reference U/s 50C(2)(b) of the Act while passing the order of assessment, the limitation U/s 153 of the Act has been extended by the A.O. but, we are not inclined to accept the argument of ld. DR as Section 153 specifically does not exclude period of reference u/s 50C of the Act. Thus, we are of the view that what cannot be done directly cannot be done indirectly. Ld DR could not bring on record any contrary decision or position of law to our notice to counter the judgment relied upon by the ld. AR of Hon'ble Gujrat High Court in the case of **Darshan Buildcon vs ITO (supra),**

therefore, under the circumstances while following the decision of Hon'ble Gujrat High Court in the case of **Darshan Buildcon vs ITO (supra),** we hold that the assessment order passed by the A.O. and upheld by the ld. CIT(A) is liable to be set aside as there cannot be any provisional assessment order under the income tax law.

20. Now while dealing with upholding of addition U/s 50C of the Act is concerned, it is clear from the record that the DVO report was received after assessment which makes valuation as per stamp duty valuing as on the date of sale deed. Ld AR in this respect has submitted that while holding the addition, ld. CIT(A) rejected the assessee's explanation on doubt of reliability of sale agreement which was available for his perusal and it was ld. CIT(A)'s findings wherein it was mentioned that details of sale agreement has not been mentioned in the sale deed though part consideration of Rs. 11.00 lacs was received in F.Y. 2004-05 which is an undisputed fact. It was also submitted by the ld AR that adoption of stamp valuation for F.Y. 2004-05 was not considered after giving finding that consideration in part was received in F.Y. 2004-05 in cash only.

21. We have meticulously gone through the facts pertaining to the grounds in question as well as the DVO report. From the record, we noticed that the DVO had made no attempt except to adopt the stamp

valuation as on the date of sale deed. The said DVO report does not determine fair value U/s 50C of the Act. The DVO has merely accepted the stamp value given by the sub-registrar as on the date of sale deed, without considering and disposing the objections of the assessee that properties were disputed and prior agreement of sales were executed by the assessee. Further no fair value has been determined in DVO report, no comparable sale instances relied upon, no correct method applied to determine fair value, no adequate opportunity of being heard given. The information/documents relied upon by the ld. DVO have not been confronted and/or provided to the assessee. Further the very purpose of reference is defeated if stamp valuation is mechanically applied in valuation proceedings. To support contention, reliance is placed on the decision of Coordinate Bench of Kolkata ITAT in the case of **Chandra Bhan Agarwal Vs Addl. CIT, Range-31, Kolkata ITA No. 1778/Kol/2009** wherein valuation merely on the basis of stamp value was not considered appropriate to justify addition U/s 50C of the Act and therefore, the ld. CIT(A) was not justified by simply resorting to DVO report which does not determine fair value as envisaged under the law.

22. We found that existence of prior agreement of sale is very much evident from sale deeds executed and agreement to sale placed on

record. On bare perusal of page No. 2 of the sale deed i.e. "Vikray Patr" enclosed at page No. 25 of the paper book, it is clearly mentioned that the properties were sold through prior agreement dated 18/09/2004 and 19/07/2005 whereby total amount of Rs. 11.00 lacs received which is further supported by agreement to sell which is available at page Nos. 52 to 56 of the paper book. Similarly, another sale deed available at page Nos. 18 to 24 of the paper book clearly mentions the fact of dispute being resolved though court order dated 18/08/2009 and prior agreement to sale in subsequent para of the said sale deed which is at page No. 19 of the paper book. Thus, in our view, the ld. CIT(A) at page No. 52-53 of its order also recorded an incorrect finding that there is no mention of any prior agreement to sell in the deed despite the fact that the reference of prior agreement is clearly mentioned at page No. 2 of the sale deed. Further doubting on existence of agreement to sell is also not justified as no addition can be sustained merely on suspicion. The fact that the assessee received advance payment of Rs. 11.00 lacs in F.Y. 2004-05 and 2005-06 is undisputed. However, merely receipt of advance payment in cash and doubt on reliability of agreement to sell without any valid basis does not justify addition.

23. As far as issue of receipt of consideration in cash mode and not through cheque is concerned, in this respect, we noticed that requirement of receipt of consideration in cheque only was made effective later on by inserting proviso to Section 50C of the Act. However, at the time of execution of agreement to sell, there was no such restriction of receiving cash consideration against agreement to sell, thus, having regard to the decision of the Coordinate Bench in the case of **Indexone Tradecone (P.) Ltd. vs. Deputy Commissioner of Income-tax, Central Circle-2, Jaipur IT Appeal No. 470/JP/2018**, the said basis is not a valid basis to deny benefit of taking stamp duty valuation considering DLC rates of FY 2004-05 for the purpose of section 50C of the Act. Therefore, the findings of ld. CIT(A) are set aside, therefore, on the basis of discussion and the reasons mentioned above, we set aside the findings of the ld. CIT(A) and direct the A.O. to calculate capital gains by adopting the stamp value prevailing in F.Y. 2004-05.

24. The ground No. 6 of the appeal raised by the assessee relate to challenging the order of the ld. CIT(A) in levying interest U/s 234A, 234B and 234C of the Act. We found that this ground of appeal is consequential in nature and does not require any judication.

25. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on 21st December, 2020.

Sd/-	Sd/-
(विक्रम सिंह यादव)	(संदीप गोसाईं)
(VIKRAM SINGH YADAV)	(SANDEEP GOSAIN)
लेखा सदस्य / Accountant Member	न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 21/12/2020
*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Prithvi Raj Singh, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-2(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1356/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar