



DEL ITAT: Quashes Reassessment For Non-Compliance With Sections 147 & 151

The present appeal before the Income Tax Appellate Tribunal (ITAT), Delhi, concerns the validity of reassessment order passed u/s 147 read with section 144 of the Income Tax Act, 1961 ('the Act'). The assessee, M/s Anchor Alloys (P) Ltd., challenged the jurisdictional validity of the reopening of assessment initiated by the Assessing Officer (AO) beyond the statutory period of four years from the end of the relevant assessment year. The crux of the dispute revolves around compliance with mandatory provisions u/ss 147, 148 and 151 of the Act.

Provisions of section 147, 148 and 151 of the Act that are relevant to understand the foregoing ruling are quoted herewith:

Section 147: Income escaping assessment

If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year

First Proviso to section 148(1): Issue of notice where income escaped assessment

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year

Section 151: Sanction for issue of notice

Specified authority for the purposes of sections 148 and 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be.

Factual Matrix

After the assessee had filed its return, its return was selected for scrutiny under the provisions of the Act and going forward, the Assessee had received a notice u/s 142(1) of the Act. This notice had called for information regarding the details of amount received as 'Share Application Money' from M/s Praneta Industries Ltd. The assessee furnished its detailed reply to the same by furnishing all vital information in the form of addresses of the investor, bank statement, ITR, PAN details, share application form and share allotment letter and audited financial statements and based on the information received the AO passed the final assessment order u/s 143(3) of the Act dated 24th March 2014.

Subsequently, in March 2019, the AO issued a notice u/s 148 alleging that the same share application money had escaped assessment. The reopening was thus initiated after the lapse of four years, due to power conferred by the first proviso to sub-section (1) of section 148, in accordance with which notice of reassessment shall be furnished only if any information is available with the AO that suggests that income has escaped assessment.



Key Legal Issues

1. Validity of Approval u/s 151:

The assessee, shielding himself with the right conferred by the Right to Information Act, obtained copies of the recorded reasons and the approval granted by the Principal Commissioner of Income Tax (PCIT). The approval merely stated 'satisfaction recorded as per annexure,' where the annexure was nothing but the reasons recorded by the AO. The Tribunal observed that such mechanical endorsement does not fulfil the statutory requirement of independent application of mind by the sanctioning authority. Judicial precedents have consistently held that approval u/s 151 must reflect conscious consideration and satisfaction that the case warrants reopening.

2. Absence of Allegation Regarding Failure to Disclose:

The recorded reasons did not contain even a whisper of any failure on the part of the assessee to disclose material facts. On the contrary, the documents demonstrated that all relevant particulars were furnished during the original assessment. In the absence of such an allegation, the assumption of jurisdiction u/s 147 beyond four years is rendered invalid.

3. Examination of Same Issue in Original Assessment:

The Tribunal noted that the alleged escapement pertained to share application money, which had already been scrutinized in 2014. The AO had issued notices u/s 142(1), and the assessee responded with exhaustive details. Therefore, reopening on the same ground amounts to a mere change of opinion, which is impermissible in law.

Citation

M/s Anchor Alloys (P) Ltd. v. ACIT, Central Circle-II, Faridabad, ITA No. 5059/Del/2025

Tribunal's Findings and Decision

After analyzing the material on record, the ITAT held that the reassessment proceedings suffer from "incurable legal defects". The approval u/s 151 was granted in a mechanical manner without independent application of mind. Further, the reasons recorded did not establish any failure on the part of the assessee to disclose material facts, a sine qua non for reopening beyond four years. Consequently, the reassessment order dated 17.12.2019 was quashed, and the appeal of the assessee was allowed.

The decision serves as a cautionary tale for tax authorities to adhere strictly to statutory requirements and for taxpayers to invoke their rights in case where a procedural lapse occurs.