



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 06.10.2025

+ **ITA 60/2024**

PR. COMMISSIONER OF INCOME TAX – 1 .....Appellant

versus

M/S AGROHA FINCAP LTD. ....Respondent

**Advocates who appeared in this case**

For the Appellant : Mr. Vipul Agrawal, SSC with Ms. Sakshi Shairwal, Mr. Akshat Singh, JSCs and Mr. Gaoraang Ranjan and Ms Harshita Kotru, Adv.

For the Respondent : Mr. Arvind Kumar, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MR. JUSTICE VINOD KUMAR**

**JUDGMENT**

**V. KAMESWAR RAO, J.**

1. This appeal has been filed with the following prayers:

*“(a) To frame the substantial Questions of Law mentioned in Para 2 of the appeal;*

*(b) To frame any other substantial Question of Law which may arise from the impugned order dated 07.07.2023.*

*(c) To set aside the impugned order dated 07.07.2023 of the Ld. ITAT in ITA No. 2859/Del/2022”*

2. This appeal is filed against the order dated 07.07.2023 in ITA No. 2859/Del/2022. The Appellant in this appeal is the Principal Commissioner



of Income Tax-1 and has filed the present appeal under Section 260A of the Income Tax Act, 1961 ('the Act', hereafter).

3. The Appellant in their assessment order dated 28.11.2016 had recorded that the Respondent/Assessee was incorporated on 28.08.1995. The business of the Assessee for the Assessment Year ('AY', hereafter) 2009-10 was not mentioned and when the Respondent/Assessee filed its return of income on 22.09.2009 for the AY 2009-10, it had declared its income as Rs. 40,720/-, which was then processed under Section 143(1) of the Act. This Income was not selected for regular scrutiny. After the return of income was processed, on 30.10.2010 the Appellant received information from the office of the Director of Income Tax (Investigation-II) vide letter dated 12.03.2013 that a search operation was carried out wherein seized documents revealed that the Respondent/Assessee was involved as a beneficiary of accommodation entries. The Respondent/Assessee had claimed that it declared in its return of income that it had received share capital along with share premium of Rs.25,00,000/-.

4. As per the Appellant, prior to 1989, Section 147 enumerated two grounds for reopening concluded assessments; one being on the basis of information received by the Assessing Officer ('AO', hereinafter), the assessment had to be opened within four years; and where material facts for assessment were not disclosed in the course of assessment whether within or beyond four years. The Appellant under Section 148 of the Act issued a notice dated 28.03.2016 to the Respondent/Assessee and sought a reply. The Assessee vide letter dated 11.08.2016 filed objections against reopening of assessment, which letter was disposed of by the appellant on 11.08.2016. The assessment order dated 28.11.2016 states that on a perusal of the return



of income it may be seen that the Respondent/ Assessee has a share capital/ share premium fund of Rs. 1,32,85,562/- (including Rs. 11,562/- on account of profits) i.e., an increase of Rs. 25,00,000/- from the previous year's share capital/ share premium of Rs. 1,07,74,000/-. The case of the Appellant is that the Respondent/Assessee had obtained accommodation entries of Rs.25,00,000/- from one S. K. Jain group. The relevant documents seized from the S. K. Jain group revealed the following:

Date	From	To	Bank	Intermediary	Mode of Payment	Amount	Remarks
18.11.2008	Virgin Capital Services Ltd.	Agroha Fincap Ltd .	Axis Bank	Single Sahab	RTGS	10,00,000	A-29 Page 35 (Back page)
21.11.2008	Mani Mala Delhi Prop. Pvt. Ltd.	Agroha Fincap Ltd.	Axis Bank	Single Sahab	RTGS	10,00,000	A-29 Page 38
21.11.2008	Virgin Capital Services Ltd.	Agroha Fincap Ltd .	Axis Bank	Single Sahab	RTGS	5,00,000	A-29 Page 38
					<b>TOTAL</b>	<b>25,00,000</b>	

5. It has been mentioned in the said assessment order that S. K. Jain group had received cash on various dates from an intermediary by the name of one Single Sahab in lieu of the accommodation entry. The Appellant moved on the basis that the transactions were a form of introducing cash in the system in the form of bogus sales. This cash was then transferred to different paper/shell companies floated by the S. K. Jain group through a complex trail of transactions to hide the actual source of funds. According to the Appellant this was the Respondent's way of enhancing the reserve and surplus along with the capital account of a specific set of companies with the help of unexplained cash routed through shell companies. Once these companies' funds were sufficiently enhanced accommodation entries were made through RTGS/Cheque in the shape of the share capital, share application money, share premium, sale/purchase of shares, unsecured loans,



bogus expenses, etc., as per the specific requirements of the beneficiaries, which were provided to them in lieu of the cash receipt. As per the Appellant, in this way the chain for providing accommodation entries was completed although these transactions were layered through three to four companies. Pursuant to the aforementioned a notice dated 19.10.2016 under Section 148 of the Act was issued to the Assessee, relevant portion of which reads as follows:

*"7. "As per the report of Investigation Wing, name of various companies/persons being beneficiaries were identified after extensive verification of documents seized as a result of search operation conducted against Sh. S.K. Jain Group (Entry Operator). The incriminating document seized during search (date of search 14.09.2010) included the companies/ persons identified as be beneficiaries who have obtained the accommodation entries generally in the form of share capital/share premium/loans. The details like the amount received by these companies/persons, the cheque/PO number, the name of issuing company, the mediator/middle man, bank etc as recorded in the seized documents have been tabulated and enclosed with the report.*

*8. In the appraisal report of Sh. Surendra Kumar Jain Group, the investigation Wing has summarized evidences which established that Sh. Surendra Kumar Jain and his brother Sh. Virendra Jain were accommodation entries providers and their modus operandi for providing accommodation entries in lieu of cash which are discussed below in brief*

*A. During the course of search proceedings of the Sh. S.K. Jain Group it was found that a number of companies were running from the residential as well as other address related to Sh. Surendra Kumar Jain and Sh. Virendra Kumar Jain. However, all the books of*



*accounts and other relevant papers of these companies were found at the residence of Sr. Surendra Kumar Jain and Sh. Virendra Kumar Jain itself and no documents was found at the other addresses which were mentioned in the statutory records of these companies. The above facts and result of post search enquiries have revealed Shri Surendra Kumar Jain and Shri Virendra Kumar Jain companies are controlled by through dummy directors/ Principal officers of these companies.*

*B. The seized records include blank unsigned as well as blank signed cheque book, acknowledgement of filing of return of these companies, user ID and password of all companies of e-filing of their return, bank account opening and closing letters, authorization letters for attending assessment proceedings, book of account in tally format as well as format for filing the return, proof of use of mobile numbers of Sh. Surendra Kumar Jain and Sh. Virendra kumar Jain in bank account opening forms where option of mobile banking was required. Thus all these companies are tools of their business of providing accommodation entries.*

*C. The investigation wing has drafted a list of such 99 companies being controlled by S.K. Jain Group which has been supplied along with the report. A copy of the same is placed on record.”*

6. It is the case of the Appellant that the amount of Rs.25,00,000/- represents unexplained credit under Section 68 of the Act in the books of account of the Respondent/Assessee. It is their case that the Respondent/Assessee failed to pass the test of identity, creditworthiness and



genuineness of transactions. The Respondent/Assessee in its reply dated 26.10.2016 stated as under:

*“A. Appraisal report of S.K. Jain group*

*Vide Para - 8 of SCN, reliance has been placed on the appraisal report of SK Jain Group of cases.*

*IN this regard, the copy of appraisal report (relevant portion) of S.K. Jain group of cases be please supplied for our perusal and comments, in the absence of which it cannot be used against us. Hence, any adverse inference on the basis of said appraisal report, as on date, cannot be taken. The assessee clearly denies any allegation as made out in the said appraisal report.*

*B. Analysis of information received and collected by the Inv. Wing etc.*

*It has been done vide Para - 11 to 18 of SCN.*

*In this regard, this exercise has been done by the Inv. Wing/Dept. On the back of the assessee and without confronting any such material to the assessee by the Inv. Wing or otherwise. The assessee is not a party to this working. The assessee had no occasion to comment upon these observations of the Inv. Wing as he was never provided the material mentioned in these Para's and he was also not asked to reply for the said documents collected on the back of assessee. The assessee clearly denies any allegation as made out in the said analysis. Any analyzing made without asking the effected parties to join the investigation, cannot be used against such effected parties.*

*C. Summary of evidence relating to assessee*

*This is covered in Para 19- 21 of SCN.*

*In this regard, in Para - 20.1, it has been mentioned that cash payment has routed through some intermediary namely Sh. Singhal Sahab as per Annexure - B which annexure has been mentioned as attached with SCN. However, no Annexure B has been annexed with the SCN. It is therefore requested to provide a copy of the same.*

*Further, the assessee clearly denies any cash paid*



*and that too through some Singhal Sahab, Kindly let us know the complete name and address of "Singhal Sahab ". Also kindly arrange for cross - examination. Also, we need to know the details/name and address of the author of Annexure - B. We also need to cross - examine the author of Annexure - B which be please arranged. It is submitted that these document have not been seized from assessee, these are not in the handwriting of the assessee, the assessee clearly denies the allegations made w.r.t. Annexure - B, therefore, it becomes very necessary to provide for, as requested above in the absence of which, said Annexure -B cannot be used adversely/against the assessee.*

*D. Asstt. Order/CIT(A) order in the case of SK. Jain/Virender Jain Group*

*It has been discussed in Para-22 of the SCN.*

*As mentioned, in the case of S.K. Jain, the amount has been added on substantive basis. It shows that the amount has been held as belonging to S.K.Jain/Virender Kr. Jain.*

*In CIT(A) order, findings of AO has been confirmed. This also shows that the said amount has been considered as belonging to SK. Jain/V.K.Jain/S.K.Jain group. Hence, this amount cannot be treated as of assessee.*

*E. Conclusion.*

*It has been discussed in Para - 23 to 25 of the SCN.*

*In this regard, the conclusion in the SCN is based on the information collected/received from Inv. Wing. It has already been stated above that this information, since, being collected on the back of the assessee and no opportunity has been provided to rebut and also in the absence of providing these persons for cross-examination of the assessee, the said conclusion is not based on cognizable material so far as the assessee is concerned.*

*F Preposition to add Rs. 10 lacs u/s 68 as un-explained credit*

*It has been discussed in Para - 26 of the SCN.*

*In this regard, kindly refer to three submissions*



*made during Asstt. Vide letter dtd. 28.06.2016, 11.08.2016, 22.08.2016 and 19.09.2016. It is also submitted that a large no. of relevant documents has been filed along with letter dated 19.09.2016 to prove the genuineness of the receipts w.r.t. Sec. 68. All these documents remains un-rebutted, un-controverted. There is no evidence which conclusively proves that assessee has given cash and in turn received the payment under consideration. In view of these documents, it is submitted that no addition should be made.”*

7. The assessment order dated 28.11.2016 found that the Respondent /Assessee was unsuccessful in proving the genuineness of the sum of Rs.25,00,000/- which was found credited in the books of account. Along with an unexplained investment in the form of an expenditure at the rate of 1.8% of the accommodation entry which amounts to Rs.45,000/-, and the addition of Rs.40,720/- which was the income as per the return of income, thus bringing the total taxable income to Rs.25,85,720/-. Therefore, the case of the Appellant is that on account of inaccurate particulars of income in the form of unexplained credits it is a fit case to initiate penalty proceedings under Section 271(1)(c) of the Act. Thereafter, the Respondent/Assessee challenged the assessment order dated 28.11.2016 before the National Faceless Appeal Centre, which vide order dated 10.10.2022 under Section 250 of the Act dismissed the appeal.

8. After which the Respondent/Assessee filed an appeal before the Income Tax Appellate Tribunal ('ITAT', hereafter), the order of which dated 07.07.2023 is impugned in this present appeal. It was the case of the Respondent/Assessee before the ITAT that the initiation of proceedings under Section 147/148 of the Act was without jurisdiction along with the





fact that the AO failed to consider the directions of the Supreme Court in the case of ***GKN Drive Shafts (India) Ltd. V. Income Tax Officer & Ors., (2003) 1 SCC 72***. The ITAT noted that the Respondent/Assessee's share capital at a premium has shown an increase of Rs.25,00,000/- on account of contributions received from M/s. Mani Mala Delhi Pro. Pvt Ltd and M/s. Virgin Capital Services (P) Ltd being Rs.10,00,000/- and Rs.15,00,000/-, respectively. It was also alleged that the Respondent/Assessee was not provided with all the copies of all the material documents used against the Respondent/Assessee and they were also not allowed to cross-examine relevant persons. The ITAT while referring to its decision in the case of the Respondent/Assessee numbered ITA No. 1063/Del/2019 for the AY 2010-11 stated that the authorities merely mentioning in one line that they are satisfied if a certain case is fit for reopening assessment does not constitute a valid approval which is granted in a mechanical manner without independent application of mind. Therefore, the ITAT held that the case of the Respondent/Assessee followed a similar pattern wherein the Appellant herein had merely stated that the case of the Respondent/Assessee was a fit case for reopening assessment without providing adequate reasons. The ITAT was of the view that the approving authority had given an approval in a mechanical manner which was not in accordance with the decision of this Court in the case of ***Principal Commissioner of Income-Tax v. N.C. Cables Ltd., (2017) 391 ITR 11***. The ITAT on this ground quashed the entire proceedings in favour of the Respondent/Assessee. The relevant portions of the impugned order is as follows:

*“6. On perusal of the copy of approval available at page 14 of the assessee's paper book I note the facts of the present case and satisfaction recorded by the*



*PCIT in the present case is similar worded was recorded in assessee's case for A Y 2010-11. Therefore, respectfully following the conclusion drawn by the coordinate bench of the Tribunal in several order including the order in assessee's own appeal in A Y 2010-11 (supra) wherein, it has been held that merely giving approval by mentioning "Yes, I am convinced it is fit case for re-opening of assessment u/s 147 by issuing notice u/s 148." Is not comply mandatory requirement of granting approval u/s 151 of the Act. Thus, the valid approval granted reassessment proceedings notice u/s 148 of the Act and impugned reassessment order 28.11.2016 for A Y 2009-10 deserves to be quashed. As I have noted above noted above that in the instant case also both the approving authority have merely given a ritual approval in a mechanical manner, therefore, respectfully following the decision of the jurisdictional High Court of Delhi in the case of NC Cables (supra) I hold that the reassessment proceedings are bad in law. Therefore reassessment proceedings and impugned order of reassessment dated 28.11.2016 for AY 2009-10 are not sustainable being bad in law. Accordingly, the same are quashed and ground No. 3 of assessee is allowed.*

*7. In earlier part of this order I have quashed the entire proceedings and impugned reassessment order allowing legal ground of assessee and Ld Representative of both the sides have not made any submission on the other grounds of assessee, therefore, I do not deem it proper to adjudicate the same in absence of any submissions."*

9. It was thereafter, that the appellant filed the present appeal. Mr. Vipul Agrawal, learned Senior Standing Counsel, on behalf of the Appellant has argued that the ITAT has erred in deleting the addition of Rs. 25,00,000/- under Section 68 of the Act. It is his case that the ITAT has wrongly ignored



the information received from the investigation wing wherein, the Respondent/Assessee had already obtained accommodation entries amounting to the said Rs. 25,00,000/- from S. K. Jain group. It is his case that the AO had provided detailed reasons related to the above transactions which were the basis for reopening the assessment. He contended that the case of *N.C. Cables Ltd. (supra)* is distinguishable on the ground that the CIT(A) therein had ritualistically granted the approval merely by stating “approved” and this Court as per *N.C. Cables Ltd. (supra)* had held that the Commissioner of Income-Tax (appeals) has to record elaborate reasons for agreeing with the noting, while the satisfaction has to be recorded of the given case and is to be reflected in the briefest possible manner. While in this case the above conditions are satisfied where he briefly recorded that the case is fit for reopening.

10. Mr. Agrawal has stated that the case of the appellant requires consideration as the Respondent/Assessee was involved in bogus transactions. It is his case that the ITAT did not consider the position in the case of *Pawan Kumar M. Sanghavi v. Income Tax Officer : [2017] 165 ITD 260 (Ahd)* which was upheld by the Gujarat High Court. Mr. Agrawal has in support of his arguments also relied on the following judgments:

- i. *PCIT v. Meenakshi Overseas Pvt. Ltd., ITA 651/2015*, dated 11.01.2016;
- ii. *N.C. Cables (supra)*;
- iii. *PCIT V. Pioneer Town Planners Pvt. Ltd., (2024) 465 ITR 356*;
- iv. *SBC Minerals Pvt. Ltd. vs. ACIT W.P. (C) 7885/2023*, dated 20.08.2024.



11. On the other hand, Mr Arvind Kumar, learned Counsel appearing on behalf of the Respondent/Assessee has justified the order of the ITAT, by stating that the approval granted in this case does not satisfy the requirements of a considered approval by the authority. He stated the Tribunal has rightly relied upon *N.C. Cables Ltd. (supra)*. He seeks dismissal of the appeal.

12. Having heard the learned counsel for the parties and perused the records, the short issue, which arises is in terms of the substantial question of law framed by this Court vide order dated 24.01.2024, in the following manner:-

*“A. Whether on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal [“ITAT”] has erred in quashing the reassessment proceedings by holding the approval granted by the Principal Commissioner of Income Tax under Section 151 of the Income Tax Act, 1961 to be invalid?”*

13. The said order dated 24.01.2024 has also referred to paragraph 11 and reproduced the language used by the Competent Authority i.e. “... Yes, I am satisfied that it is a fit case for reopening of assessment ...”. The ITAT was of the view that the approval given was in a mechanical manner, which is not in accordance with the judgment of this Court in *N.C. Cables Ltd. (supra)*. Suffice to state in *N.C. Cables Ltd. (supra)*, this Court in paragraph 11 has stated as under:-

*“11. Section 151 of the Act clearly stipulates that the CIT (A), 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 CIT (A) 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 ITAT cannot be disturbed.”*

14. From the above, it is clear that in ***N.C. Cables Ltd. (supra)***, this Court had only considered the expression “*approved*”. The Tribunal in the impugned judgment referred to the judgment of the ITAT dated 17.10.2019 for the subsequent assessment year being 2010-11 and following the judgment of the ITAT for the said assessment year and also the judgment of this Court in ***N.C. Cables Ltd. (supra)*** allowed the appeal.

15. The said judgment was not taken in appeal. The Appellant/Revenue has at page 9 of the paper-book given a certificate stating that no appeal was filed against the order of the ITAT because of the low tax effect. It is also stated that no SLP has been filed against the decision of this Court in ***N.C. Cables Ltd (supra)***. In that sense the judgment of this Court in ***N.C. Cables Ltd (supra)*** has attained finality.

16. If that be so, the issue needs to be seen as to whether the usage of the language “*Yes, I am convinced it is a fit case for re-opening of the assessment u/s 147 by issuing notice u/s 148*” shall meet the requirement of proper approval by the Competent Authority.

17. It may be stated here that in the case of ***N.C. Cables Ltd (supra)***, the Court was concerned with the word “*approved*”. It was in that context, this Court has in paragraph 11 stated that merely appending the expression



“approved” says nothing.

18. This Court has said that the satisfaction has to be recorded, which can be reflected in the briefest possible manner. So the judgment of this Court in ***N.C. Cables Ltd (supra)*** is clearly distinguishable.

19. We may at this stage refer to a judgment of this Court titled ***PCIT v. Meenakshi Overseas Pvt. Ltd. (supra)*** wherein this Court had considered “Yes, I am satisfied” to mean that it satisfies the mandate of Section 151(1) of the Act. The relevant paragraph is reproduced as under:-

*“16. Having carefully examined the aforesaid decisions, the Court finds that they are distinguishable in their application to the facts of the present case. It is not as if the Additional CIT here has merely appended his signature without specifically noting his approval. This is also not a case where a “Yes” rubber stamp has been used as was in the case of Central India Electric Supply Co. (supra). For the purpose of Section 151(1) of the Act, what the Court should be satisfied about is that the Additional CIT has recorded his satisfaction “on the reasons recorded by the Assessing Officer that it is a fit case for the issue of such notice”. In the present case, the Court is satisfied that by recording in his own writing the words; “Yes, I am satisfied”, the mandate of Section 151(1) of the Act as far as the approval of the Additional CIT was concerned, stood fulfilled. Additionally, by his letter dated 22nd March 2011 the Additional CIT confirmed and reiterated his approval already granted on the Form ITNS-10.”*

*(Emphasis added)*

20. So it must be held, that the language “Yes, I am convinced it is a fit case for re-opening the assessment u/s 147 by issuing notice u/s 148” satisfies the mandate of Section 151A of the Act in this case. The Tribunal has clearly erred in not appreciating the above language used by the



Competent Authority while granting approval. Hence, the impugned order dated 07.07.2023 passed by the ITAT allowing the appeal filed by the Respondent/Assessee is untenable and is liable to be set aside. We order accordingly. The substantial question of law is decided in favour of the Appellant/Revenue and against the Respondent/Assessee.

21. No order as to costs.

**V. KAMESWAR RAO, J**

**VINOD KUMAR, J**

**OCTOBER 06, 2025**

*rt/sr*