IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI

BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. KULDIP SINGH, JUDICIAL MEMBER

ITA No.2403/DEL/2017
Assessment Year: 2008-09

Jindal Steel & Power Ltd. Jindal Centre 12, Bhikaji Cama Place New Delhi – 110066 PAN : AAACJ7097D	**Vs**	**DCIT Circle -1 (1), 5th Floor, HSIDC Building, Vanijya Nikunj, Udyog Vihar, Phase-V, Gurgaon**
(APPELLANT)		**(RESPONDENT)**

Appellant by	Sh. Salil Kapoor, Advocate Ms. Ananya Kapoor, Advocate
Respondent by	Sh. J.K Mishra, CIT DR

Date of hearing:	03/12/2018
Date of Pronouncement:	10/12/2018

ORDER

PER N. K. BILLAIYA, AM:

With this appeal the assessee has challenged the correctness of the order of the CIT(A)-1, Gurgaon dated 31.03.2017 pertaining to A. Y. 2008-09.

2. The assessee has challenged the validity of the reassessment dated 31.03.2016 passed by the Assessing Officer u/s 143 (3) r/w 147 of the Act. The assessee contents that the notice issued u/s 148 of the Act and the assessment framed pursuant to the said notice is bad in law. The assessee is further aggrieved by the denial of deductions claimed u/s 80 IA and 80IB of the Act.

3. Representatives of both the sides were heard at length. Having heard the rival contentions, we have carefully perused the orders of the authorities below and with the assistance of the Ld. Counsel we have carefully considered the relevant documentary evidences brought on record in the form of paper books in the light of Rule 18(6) of the ITAT Rules.

4. Briefly stated the facts of the case are the return of income was filed on 29.09.2009 which was subsequently revised on 29.03.2010. The return was selected for scrutiny assessment and accordingly assessment was framed u/s 143 (3) of the Act vide order dated 27.12.2010. The said assessment order was revised by the PCIT u/s 263 of the Act and pursuant to the order framed u/s 263 of the assessment was made vide order dated 19.09.2013.

5. Despite repeated examination / verification of the return of income and the books of accounts, reassessment proceedings were initiated notice u/s 148 of the Act was issued on

24.03.2015. With this notice the Assessing Officer sought to reopen the assessment framed vide order dated 19.09.2013 the reasons recorded by the Assessing Officer for reopening assessment reads as under :-

Name and address of the assessee M's Jindai Steel and Power Limited.

O P Jindai Mary,Delhi Road.Hisar

Status	*Company*
PAN	*AAACJ7G97D*
Asst. Year .	*2008-09*

Reasons for initiation of the proceedings u/s 147 of the Income Tax Act. 1961.

Assessment in this case was completed at an income of Rs.9,09,65,19,%/- vide order u/s 143(3)/263 passed on 19 09.2013 A perusal of the assessment records, reveals the following

i) Sub-clause-25(J) relating to expenditure in foreign exchange of Schedule 20 (significant accounting policies and notes on accounts) of annual accounts of the company revealed, that the assessee company incurred expenditure of Rs.23.99 Crore on Technical Knowhow Under the Income Tax Act read with depreciation chart, technical know-how is intangible asset which qualify for depreciation @ 25%. However in the instant case, the entire expenditure was claimed as revenue expenditure as no such asset was appearing in the details of fixed assets in this way, there has been Omission to do so resulted in under assessment-of income of Rs. 17,99,25,000/-. The same was required to be added to the taxable income of the assessee

ii) The assessee company had invested Rs 1036.19 Crore (previous year Rs 709 82 Crore) in shares of other companies, the dividend income arising therefrom does not form pan of total income. The assessee has also taken huge loans during the year. In view of provisions of section 14A read with Rule 8D at least, interest to the extent of Rs.25,36,00,000/- needs to be disallowed, the computation of which is as under :-

Interest paid	*Rs 208 59 Crore (refer schedule 19)*
Average Investment	*Rs. 1036.19-+ 709.82/2 = Rs.873.00 Crore*

Average Assets of B/Sheet. *Rs 9735 21+ 7599 84= Rs.8667. 52 Crore*

Interest to be disallowed 208 59x873 00/8667 52=21 00 Crore

Add 0 5“o of Rs 873 Crore *= 4.36 Crore*

iii) It has been noticed that the assessee company has claimed deduction u/s 801A and 801B of the Income Tax Act. 1961 But, during assessment proceedings for AY 2011-12, the AO and during proceedings u/s 263. the worthy CIT. Hisar noted, on merits, that the assessee company does not qualify for deduction u/s S0JA and 801B of the Income Tax Act 1961 During the assessment proceedings for AY 2011-12, it has been noticed that the assessee owns a captive power plant at Raigarh This captive power plant has been established for sole purpose of uninterrupted supply of electricity to the other manufacturing units. There has been no intent ion of earning profits from the captive power plant This fact has been ascertained from the applications filed-by the assessee to the Chhatisgarh State Govt. for taking exemption from electricity duty etc "Even, the Auditor of the assessee does not consider it a profit oriented enterprise.

It must be noted that deduction u/s 80-1A is not available to a unit or new unit unless the unit is in the nature of an undertaking’ and your Captive Power Plant does not qualify, for. an undertaking .

Section 801A(7) specifically provides for audit of books of accounts to deri ve the profit & gains of an undertaking. But, during the proceedings in respect of A Y. 2005-06 u/s 263 and during" -assessment proceedings for AY 2011-12, the counsels of the assessee admitted (in writing) before the Commissioner of Income Tax, Hisar and before the AO, respectively, that the assessee company does not maintain separate unit-wise books of accounts in conventional forum say cash book, bank book, party ledger, stock register etc. Rather, the assessee .keeps consolidated books of account on SAP Computer System. It, in-itself, is evidence that condition of separate books of- accounts is not fulfilled by the company. Hence,' the balance sheet-&. P&L. etc of the units claiming 801A and 80IB are made on estimated basis only. It is also beyond understanding how the auditors audited the transactions of the-units, separately when ‘no separate record is maintained and no separate details are kept. You do not maintain separate cash book for eligible units.

In respect of claim of 801A and 80IB, the assessee did not produce unit-wise books of

account along with cash book, profit & loss account, balance sheet, separate unit-wise audit report, ledgers of sundry debtors and creditors and details of assets and liabilities of the eligible units

In respect of claim of 801A and SQ1B, the assessee did not explain how value of coal fines, rejected coal, cost of steam, direct and overhead expenses had been computed There is no details and bills/vouchers (with costing) in respect of coal and iron-ore purchases and unit-wise-use Also tax audit report, P&L, balance sheet and details of loan funds are to be separated from the rest of the units There is no details of unit-wise sundry debtors, creditors, secured and unsecured loan providers, cash book, bank book and details of inter-unit sales-purchases and loans &. advances (along with details of interest charged on them. It is worth mentioning that the worthy CIT, Hisar and the AO in AY 2005-06 and AY 2011-12, respectively conducted detailed" enquiries and reached the conclusion that the assessee is not entitled to deduction u/s 801A and 801B of the Income-Tax -Act, .1361 Therefore, the claim of the assessee is required to be , disallowed

iv) *It is highlighted that the above issues have never been analysed from this angle There is no record to show that the Assessing Officer had examined the issue The official record does not show, the entire expenditure was claimed as revenue expenditure as no such asset was appearing in the details of fixed assets. In the absence of such detail the Assessing Officer had examined the issue during the assessment proceedings u/s 143 (3)/ 263 of the IT Act.*

v) *The same was required to be added to the taxable income of the assessee. On the basis of above, 1 have reason to believe that the assessee's failure to disclose fully and truly all material facts necessary for its assessment at an income of Rs. 17,99,25,000/-, Rs.25,36,00,000/-, Rs 428,04.98,566/- and Rs.62,99,55,219/- is chargeable to lax and any other income which, may be detected" during the course of re-assessment proceedings has escaped assessment lor the assessment year 2008-09*

6. The issues raised vide clause-I and II in the aforestated notice did not result into any addition. The bone of contention is the issues raised in clause-III of the notice. It would be pertinent to mention here that the reason for initiation of the proceeding is

undated. This means that either the reasons have been recorded on the same date as the date of notice which is 24.03.2015 or at the most they were recorded prior to 24.03.2015.

7. A perusal of the aforestated reasons clearly show that the Assessing Officer was influenced by the findings given during assessment proceeding for A. Y. 2005-06 and 2011-12. In the reasons mentioned here in above the Assessing Officer has categorically mentioned "it is worth mentioning that the worthy CIT, Hissar and the Assessing Officer in A.Y. 2005-06 and A. Y. 2011-12 respectively conducted detailed enquiries and reached the conclusion that the assessee is not entitled to deduction u/s 80 IA and 80IB of the Act. Therefore, the claim of the assessee is required to be disallowed".

8. It is worth mentioning that the CIT framed order u/s 263 of the Act for A. Y. 2005-06 on 27.03.2015 and the assessment order of A. Y.2011-12 is dated 30.03.2015. As mentioned elsewhere the notice u/s 148 of the Act is dated 24.03.2015 this means that the reasons for reopening assessment must have been recorded subsequent to the order for A. Y. 2005-06 and 2011-12 which are dated 27.03.2015 and 30.03.2015 respectively. This view is further strengthened by the remand report dated 01.02.2017 which was sent by the Assessing Officer to the CIT(A)-1, Gurgaon the relevant part of the said remand report reads as under :-

(a & b). initiation of re-assessment proceedings was made based on the I findings of the CIT, Hisar given in his order passed u/s 263 of the Act for A.Y.2005- 06 in the case of assessee company which were given after detailed analysis of books of accounts maintained by the assessee company. It is pertinent to mention here that the CIT, Hisar .made a visit to the business premises (Visit to MBF on) of the assessee to verify the correctness of the books maintained by it. The relevant portion of the observations/conclusions drawn in the order u/s 263 of the Act for A.Y.2005-06 are as under:

i. *In the order u/s 263 of the Act in A.Y.2005-06 , it: has been demonstrated by the analysis of the fact and circumstances, that the certain items like interest on so called 'inter-undertaking funding' have been missed to be included in the profit & loss account of the undertakings in respect of which deduction have been claimed, the figures given in the Cost Audit. Report, the figures of claimed losses for F.Y. 2003-04 and 2004-05 in respect of MBP are on lower side. Also, for A.Y. 2005-06, there should be loss instead of claimed, profit in ease of MBF. Similarly, figures of claimed profit in respect of the other undertakings (where assessee is claiming profit and. consequential deductions) arc on higher side. It was also held that the figures of debtors is not reliable, figures of cash-in-hand /bank balance not shown in balance sheet. It certainly indicates that the figures of deduction are inflated -and the income has been under-assessed by the corresponding amount.*

ii. *The findings of the visit made-at the premises of the assessee are as under:*

'14.3.1 During the visit of MBF on 23.12.201.3, the following was recorded: -

2. The raw material, is fed into the MBF via 'Stock House'. It *tons.* observed that some of the items like sieve of various sizes, pieces of conveyer belt (rubber) etc. were lying. On enquiry, it was explained that store items have to be got issued form central stores in anticipation because it is a continuous process and it may not be practicable to get these items issued after its requirement has actually arisen. It was also informed that as far as central store, is concerned, these hems are taken as consumed (as soon as these are issued).

These are having very short life. Certain items like pieces of conveyer belt (rubber) have been prepared out of scrap.

14.3.2 It indicates that the inventory produced by the assessee does not show the extact state of affairs.

15.1 During the visit of MBF on 23.12.2013, the following was recorded :-

"……..

7. The power of MBF is drawn from PP-II (2x55MW). On perusal of log book of PP-II, it was seen that half of the power consumed by stacker/ reclaimer is added to the figure of consumption of power of MBF. It was informed that the stacker / reclaimer is common for PP-II (2x55MW) and MBF. Therefore, power consumption is shares, equally.

……."

15.2 It is not possible that power consumption by stacker / reclaimer for PP-II and MBF is used in equal proportion for these two plants. Therefore, it is just an approximation.

iii. From the above, it can be seen that books maintained by the assessee for A. Y. 2005-06 were certainly insufficient to instill confidence about veracity of the figure of eligible profit shown by the assessee. The details provided during the proceedings u/s 263 of the Act and the analysis made thereon have clearly demonstrated that figures of the claim of deduction in respect of eligible profit u/s 80IA/80IB made by the assessee were in ninaccurate and toward higher side. Assessee was not able to produce the required details/ supporting necessary for the verification. On the examination of assessment records for A. Y. 2008-09, it was noticed by the Assessing Officer that the observations made u/s 263 of the Act were applicable to A. Y. 2008-09 also and the books of accounts maintained by the assessee were not sufficient for correct calculations of profits earned by the assessee and that the claim of deduction u/s 80IA and 80IB were not correct. Therefore, it certainly amounts to failure on the part of the assessee to disclose full and true material facts and hence the initiation of re-assessment proceedings is not barred by limitation.

(iv) On the perusal of findings given by the Ld. CIT(A), Hisar in his order u/s 263 of the Act, for A. Y. 2005-06 and the assessment

> records for A. Y. 2008-09, it was noticed by the A. O. that these findings are applicable to the A. Y. 2008-09 and that the books of accounts of the assessee were not examined earlier from the angle as examined by the Ld. CIT, Hisar in the proceedings u/s 263 of the Act. for A. Y. 2005-06. Therefore, the Assessing Officer had reason to believe that profit the Assessing Officer had not examined the manner in which book of accounts were maintained by the assessee in original assessment order u/s 143 (3) of the Act for A. Y. 2008-09, which did not given accurate picture of actual state of affairs of the assessee company. From this, it can be seen that, no opinion on this issue was formed by the A.O. at question of any change of opinion at the time of issue of notice u/s 148 of the Act. arises.

9. This conclusively proves that the notice u/s 148 was issued without recording any reasons for reopening the assessment. This is contradictory to the provisions of section 148 (2) of the Act which makes it mandatory for the Assessing Officer to record reasons before serving a notice u/s 148 and if this mandatory requirement of law is not fulfilled entire proceedings become without jurisdiction which deserve to be struck down. For this proposition we draw support from the judgment of the Hon'ble High court of Delhi in the case of Prabhat Aggarwal Vs. DCIT in WP(C) 8907/2008.

10. The undisputed fact is that the reopening has been done after four years which means that the first proviso to section 147 of the Act is applicable which reads as under :-

> "Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant

assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year."

11. The twin conditions to be fulfilled for the applicability of this proviso are that there is a failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment.

12. Facts on record show that in the present case there is no failure on the part of the assessee to disclose the facts truly and correctly. This is clear from the reasons recorded for reopening the assessment which is based on the documents already on record / file. Moreover in the reasons recorded nowhere the Assessing Officer has pointed out which fact was not fully and truly disclosed by the assessee. On the contradictory we find that the deduction claimed u/s 80 IA / 80 IB of the Act was very much on the face of computation of income, the deduction was properly disclosed in the tax audit report, the deduction was supported by the audit report in Form 10 CCB, moreover the detailed submissions on eligibility / merits and quantum of the claims were made before the Assessing Officer during the course of original assessment proceedings.

13. The Hon'ble Jurisdictional High Court of Punjab & Haryana in the case of Duli Chand Singhania 269 ITR 192 has held as under :-

"13. The entire thrust of the findings recorded by the Assessing Officer in his order dated 13-3-2003 is to justify his satisfaction about escapement of income. According to him, it was a clear case of escapement of income as defined in Explanation-2 *to section 147 as the assessee had been allowed excessive relief under section 80-0 of the Act. However, it is not necessary for us to go into the merits of this finding as the second requirement of the proviso has not been satisfied obviously. The reasons recorded by the Assessing Officer for initiation of proceedings under section 147 of the Act have already been reproduced above. A bare perusal of the same shows that the satisfaction recorded the merely about escapement of income. There is not even a whisper of an allegation that such escapement had occurred by reason of failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment. Absence of this finding, which is a* "sine qua non" *for assuming jurisdiction under section 147 of the Act in a case falling under the proviso thereto, makes the action taken by the Assessing Officer wholly without jurisdiction. As already observed, the learned counsel for the Revenue has conceded that neither in the reasons recorded nor in the order dated 13-3-2003, has the assessee been charged with failure to disclose fully and truly all material facts necessary for his*

assessment. In Fenner (India) Ltd. *v.* Dy. CIT *[2000] 241 ITR 672[1]. similar matter had come up for consideration before the Madras High Court and it has been held as under :—*

"The pre-condition for the exercise of the power under section 147 in cases where power is exercised within a period of four years from the end of the relevant assessment year is the belief reasonably entertained by the Assessing Officer that any income chargeable to tax

has escaped assessment for that assessment year. However, when the power is invoked after the expiry of the period of four years from the end of the assessment year, a further pre-condition for such exercise is imposed by the proviso namely, that there has been a failure on the part of the assessee to make a return under section 139 or in response to a notice issued under section 142 or section 148 or failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for that assessment year. Unless, the condition in the proviso is satisfied, the Assessing Officer does not acquire jurisdiction to initiate any proceedings under section 147 of the Act after the expiry of four years from the end of the assessment year. Thus, in cases where the initiation of the proceedings is beyond the period of four years from the end of the assessment year, the Assessing Officer must necessarily record not only his reasonable belief that income has escaped assessment but also the default or failure committed by the assessee. Failure to do so would vitiate the notice and the entire proceedings. The relevant words in the proviso are,

'. . . unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee....'

Mere escape of income is insufficient to justify the initiation of action after the expiry of four years from the end of the assessment year. Such escapement must be by reason of the failure on the part of the assessee either to file a return referred to in the proviso or to truly and fully disclose the material facts necessary for the assessment.

Whenever a notice is issued by the Assessing Officer beyond a period of four years from the end of the relevant assessment year, such notice being issued without recording the reasons for his belief that income escaped assessment, it cannot be presumed in law that there is also a failure on the part of the assessee to file the returns referred to in the proviso or a failure to fully and truly dislcose the material facts. The reasons referred to in the main paragraph of section 147 would, in cases where the proviso is attracted, include reasons referred to in the proviso and it is necessary for the Assessing Officer to record that any one or all the circumstances referred to in the proviso existed before the issue of notice under section 147." (p. 677)

Similarly, in Arvind Mills Ltd. *v.* Dy. CIT *[2000] 242 ITR 173[1] (Guj.), it was held as under :—*

"It is a clear case where the Assessing Officer has no reason to link escapement of income from assessment with non-disclosure of any material fact necessary for his assessment at the time of original assessment but is due to an erroneous decision on the question of law by the Assessing Officer. Thus, the case is squarely covered by the proviso to section 147 and not section 149. Initiation of proceedings under the proviso being clearly barred by time, the Assessing Officer could not have assumed jurisdiction by issuing notice under section 148 in respect of the assessment year 1982-83." (p. 176)

In the case of Mercury Travels Ltd. {supra), *the proceedings under section 147 were initiated for assessment years 1989-90, 1990-91 and 1991- 92* vide *issue of notices under section 148 in September, 1996, which was after the expiry of four years. The reassessment proceedings had been initiated almost on identical grounds as in the present case. In the reasons re-corded, it was mentioned that the deduction under section 80HHD was allowable on total profit of the business by multiplying by ratio of total receipt of convertible foreign exchange to total receipt of whole business carried on by the assessee. However, to calculate total receipt of the business, the assessee had taken gross receipt of foreign exchange* plus *net receipt of domestic business in respect of commission/service charges. Thus, it was claimed that the assessee had claimed excess deduction under section 80HHD the High Court observed that where expressly deduction under section 80HHD was claimed and it was amined and granted by the Assessing Authority, there could be no omission or failure on the part of the assessee to disclose any material fact necessary for the assessment. It has been further observed that in the reasons for reopening the assessment, it had not been alleged that there had been any omission or failure on the part of the assessee to disclose fully and truly all the material facts necessary for the assessment for those assessment years. It has been further observed that it was not even noted in the recorded reasons as to what other primary facts were required to be disclosed by the assessee. The notice under section 148 and the proceedings relating thereto were, accordingly, quashed.*

14. *In view of the above, we are of the considered view that the notice under section 148 dated 22-3-2002 (Annexure P-2) cannot be sustained. .”*

14. There is no reference to any new tangible material which come to the notice of the Assessing Officer which prompted him to initiate proceedings u/s 147 of the Act. The Hon’ble High Court of Bombay in the case of NYK Lying India Limited 346 ITR 361 has held as under :-

“Consequently and in this background the mere fact that the Assessing Officer for assessment year 2007-08 had come to a different conclusion would not justify the reopening of the assessment for Assessment Year 2006-07. In order to establish that the reopening of the assessment for Assessment Year 2006-07 is not a mere change of opinion, the Revenue must demonstrate before the Court that during the course of the assessment proceedings for the subsequent year i.e. Assessment Year 2007-08 some new information or material had been brought on record which was not available when the assessment order was passed for Assessment Year 2006-07. That indeed is not the case of the Revenue. All material which was relevant to the determination was available when the assessment was completed for Assessment Year 2006-07 thought the reopening of the assessment for Assessment Year 2006-07. Consequently, the mere formation of another view in the course of assessment proceeding for Year 2007-08 would not justify the Revenue in reopening the assessment for Assessment Year 20006-07 though the reopening of the assessment had taken place within a period of four years. The power to reopen assessment is structured by law. The guiding principles which have been laid down by the Supreme Court in Kelvinator of India Ltd. (supra) must be fulfilled. In the present case there was no tangible material, no new information and no fresh material which came before the Revenue in the course of assessment for Assessment Year 2007-08 which can justify the reopening of the assessment for Assessment Year 2006-07.”

15. It would not be out of place to mention here that the claim of deduction are allowed to the assessee since A. Y. 2000-01 in the assessment framed u/s 143 (3) of the Act. Without disturbing the initial assessment years of the claim of deduction denying the claim in the middle by reopening the assessment is nothing but change of opinion. No new tangible material has came into existence which is accepted by the Assessing Officer himself who in the reasons recorded has accepted this as he states that " a perusal of the assessment records reveals". This issue is well settled in favour of the assessee and against the revenue by the decision of the Hon'ble Supreme Court in the case of Kelvinator of India Limited reported 256 ITR 1.

16. As mentioned elsewhere the notice issued u/s 148 of the Act dates 24.03.2015 is bad in law as the same has been issued before recoding the reasons as explained elsewhere. The Hon'ble of Punjab & Haryana High Court in the case of K. G. Madan reported in 275 ITR 294 has held that "accordingly, the Tribunal held that notice u/s 148 of the Act was issued before recording the reasons u/s 148 (2) and therefore, initiation of proceedings u/s 148 assessment made in pursuance thereof were bad in law". A similar view was taken by Hon'ble Punjab & Haryana High Court Baldev Gyan 248 ITR 266 wherein Hon'ble High Court has held that prior to the issue of notice u/s 148 it is mandatory to record reasons as per the provisions of section 148 (2) of the Act.

17. There is one more reason why the notice issued u/s 148 of the Act is bad in l aw. Facts on record show that in the original assessment order dated 27.12.2010 additions/ disallowance were made including the issue of 80 IA and 80IB deduction. This assessment order was challenged before the CIT (A) who vide order dated 01.07.2011 partly allowed appeal. This means that the original assessment order was merged with the order of the CIT(A). Though the present proceedings are in respect of the assessment order framed pursuant to the order u/s 263 of the Act but the same is nothing but change of opinion.

18. The Hon'ble High Court of Bombay in the case of Prima Paper and Engineering industry 364 ITR 222 has held that after the issue of deduction u/s 80 IA of the Act was raised by the Assessing Officer during original proceedings and the same was also duly represented by assessee then reassessment proceedings cannot be initiated on this issue. The Hon'ble High Court held that since the Assessing Officer had applied his mind to the issue of deduction claimed u/s. 80IA the reassessment proceedings cannot be initiated in respect thereof.

19. A similar view was taken by Hon'ble High Court of Gujarat in the case of Parixit Industries Private Limited 352 ITR 349 wherein the Hon'ble High Court held that where notice for reassessment is issued on the basis of material at the time of

original assessment, the said notice was a case of second thought and was liable to be quashed.

20. Considering, the facts relating to the reopening of assessment from all legal angles we are of the opinion that the notice issued u/s 148 of the Act is bad in law and therefore, assessment framed pursuant to the said notice deserves to be quashed.

21. In the result, the reassessment is held to be bad in law the appeal of the assessee on this point is allowed.

Order pronounced in the open court on 10.12.2018.

Sd/-	Sd/-
(KULDIP SINGH)	**(N. K. BILLAIYA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

NEHA
Date:-10 .12.2018
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	05.12.2018
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	10.12.2018
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	