

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.145/RPR/2024
निर्धारण वर्ष / Assessment Year : 2018-19

Satish Kumar Agrawal
3B, Heav Industrial Area,
Hathkhoj, Bhilai,
Dist. Durg-490 026 (C.G.)
PAN: ADQPA1785K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-2(1), Durg (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Yogesh Sethia, CA
Revenue by : Smt. Anubhaa Tah Goel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 07.01.2025

घोषणा की तारीख / Date of Pronouncement : 13.01.2025

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 14.02.2024, which in turn arises from the order passed by the A.O under Sec.147 r.w.s. 144B of the Income-tax Act, 1961 (in short 'the Act') dated 24.03.2023 for the assessment year 2018-19. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1) In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in confirming action of Ld. Assessing Officer initiating proceedings u/s.147 r.w.s. 148, 149, 151 and 151A of the Income-tax Act, 1961 without fulfilling stipulated conditions.

2) In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC is not justified in confirming action of the ld. Assessing Officer completing assessment without supplying the material used against the appellant and without allowing cross-examination of persons whose statements were used in assessment order and thus, violating the principles of natural justice.

3) In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC is not justified in confirming action of the ld. Assessing Officer making the addition of Rs.1,80,84,701/- u/s.69C of the Act by treating genuine purchases as unexplained expenditure in the nature of bogus purchases.

4) In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC is not justified in confirming action of Ld. Assessing Officer making addition of Rs.23,31,540/- u/s.68 of the Act by estimating profit @12.50% of the genuine sales treated as bogus sales without fulfilling the stipulated conditions of sec. 68 of the Act.

5) In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC is not justified in confirming action of Ld. Assessing Officer making addition of Rs.1,02,081/- u/s.69C of the Act by treating commission paid for bogus purchases and bogus sales as unexplained expenditure.

6) The impugned order is bad in law and on facts.

7) The appellant reserves the right to addition, after or omit all or any of the grounds of appeal in the interest of justice.”

2. Succinctly stated, the assessee had filed his return of income for A.Y.2018-19 on 18.09.2018 declaring an income of Rs.11,42,800/-. Survey proceedings u/s. 133A of the Act were conducted in the case of Shri Abhishek Agrawal, proprietor of M/s. Pratyush Steels and Shri Gitesh Agrawal, proprietor of M/s. Abhishek Enterprises. Information surfaced in the course of the survey proceedings that the assessee was one of the beneficiary of bogus purchase/sales with the aforementioned parties, as under:

Sl. No.	Name of the Party	PAN	Amount in Rs.	Nature of transaction
1.	Abhishek Agrawal, (Prop. of Pratyush Steels)	AMAPA4569N	11,12,969	Bogus sales
2.	Gitesh Agrawal (Prop. of Abhishek Enterprises)	ACIPA4087B	1,75,39,352	Bogus sales
3.	Gitesh Agrawal (Prop. of Abhishek Enterprises)	ACIPA4087B	1,31,07,841	Bogus purchases
4.	M/s. Mayom Steels Ltd.	AAGCM0615C	49,76,860/-	Bogus purchases

3. The A.O based on the aforementioned information initiated proceedings u/s.148A of the Act. Notice u/s.148A(b) of the Act, dated 21.03.2022 was issued to the assessee, and he was called upon to furnish his reply to certain queries and also put forth an explanation as to why a notice u/s. 148 of the Act may not be issued to him. As the assessee failed to furnish any reply in response to the notice issued u/s. 148A(b) of the Act, therefore, the A.O after taking the prior approval of the Pr. CIT, Raipur-1 proceeded with and passed an order u/s. 148A(d) of the Act, dated 30.03.2022. Notice u/s.148 of the Act, dated 30.03.2022 was thereafter issued to the assessee.

4. During the course of the assessment proceedings, the assessee claimed to have been enter into genuine purchase/sale transaction with the aforementioned parties, viz. (i) Shri Abhishek Agrawal, (Prop. of Pratyush Steels); and (ii) Shri Gitesh Agrawal (Prop. of Abhishek Enterprises); and (iii) M/s. Mayom Steels Ltd. However, as the assessee had failed to substantiate the authenticity of his claim of having entered into genuine purchase with the aforementioned parties, therefore, the latter held the total purchases made by the assessee aggregating to Rs.1,80,84,701/-, viz. (i) Shri Gitesh Agrawal (Prop. of Abhishek Enterprises) : Rs.1,31,07,841/-; and (ii) M/s. Mayom Steels Ltd. : Rs.49,76,860/- as non-genuine and unexplained bogus purchases. Accordingly, the A.O made an addition of the entire amount of bogus

purchases of Rs.1,80,84,701/- as the assessee's unexplained investment u/s. 69C of the Act. Apart from that, the A.O holding a conviction that the assessee would have incurred expenditure/charges for procuring the accommodation entries, made an addition towards unexplained commission expenses of Rs.90,423/- i.e. @0.5% of Rs.1,80,84,701/- u/s. 69C of the Act.

5. Apropos the bogus sales aggregating to Rs.1,86,52,321/- made by the assessee from two parties, viz. (i) Shri Abhishek Agrawal, (Prop. of Pratyush Steels): Rs.11,12,969/-; and (ii) Shri Gitesh Agrawal (Prop. of Abhishek Enterprises): 1,75,39,352/-, the A.O made an addition @12.5% of the impugned bogus sales i.e. Rs.23,32,540/-. Apart from that, the A.O made an addition towards unexplained commission expenditure, which the assessee would have incurred for procuring the accommodation entries i.e. @0.5% of Rs.23,32,540/- of Rs.11,658/-.

6. Accordingly, the A.O based on his aforesaid deliberations vide his order passed u/s. 147 r.w.s. 144B of the Act, dated 24.03.2023, after inter alia, making the aforesaid additions determined the income of the assessee at Rs.2,16,61,122/-.

7. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals) but without success. For the sake of clarity, the observations of the CIT(Appeals) are culled out as under:

“8. **Decision on Grounds of Appeal:** During the appellate proceeding, Statement of Facts, Grounds of appeal, Assessment Order and appellant's submission was carefully scrutinized by the under signed.

Grounds 1 & 7: The appellant had claimed the AO erred in initiation of re- assessment proceedings without fulfilling the conditions stipulated in section 147 to 151 of the act, completion of assessment without supplying the material used against the appellant and without cross-examination of persons whose statement were used in assessment order and further argued that the notice issued U/s 148A(a) and 148A(b) are illegal as no adequate opportunity mentioned in the provisions was allowed and also that notice U/s 148 was issued by an authority other than the designated authority U/s 151A read with CBDT's Notification dated 29-03-2022. Also

1.1 In this regard as evident from the assessment order it is noted the notices issued were as per law and the notice issued U/s 148 of the Act was issued prior to CBDT notification also in the notification it is mentioned that "no direction shall be issued after the 31st day of March 2022." whereas the above notice was issued on 30-03-2022.

1.2 Para 2 & 3 of the Assessment Order clearly refutes the allegation of the appellant of not providing adequate opportunity.

1.3 With regard to cross examination the AO has elaborately dealt with vide Para 4.3 (iii) of the Assessment order.

(i) The arguments of the appellant that the statements recorded on oath by the referred parties during Survey Proceedings is general and not appellant specific. It is submitted that the appellant has not pleaded any specific it Statements recorded Therefore, mere non-mentioning of the will not vitiate the proceedings.

(ii) To explain the test of prejudice or the test of fair hearing. Reliance is placed on the decision **of the Hon'ble Supreme Court in SBI Versus K Sharma 28**. Reliance is also placed on the decision of the **Hon'ble Supreme Court in SBI Versus M.J. James** for the same proposition that prejudice should exist as a matter of fact or to be based upon the definite inference of likelihood of prejudice flowing through non observance of natural justice. It is submitted that none of the appellant have pleaded any prejudice caused to them and merely by stating that the report has not furnished to

them nor the Director of the company was not been made available for cross examination would not suffice. Reliance is placed on the decision of the **Hon'ble Division Bench of this Court in Kishanlal Agarwalla Versus Collector of Land Customs 29**. This decision was pressed into service that as long as the party charged has a fair and reasonable opportunity to see, comment and criticize the evidence, statement or record on which the charge is being made against him, the demands and the test of natural justice are satisfied and cross examination in that sense is not a technical cross examination in a Court of Law. For the same proposition reliance was placed on the decision of the **Hon'ble Supreme Court in State of J&K Versus Bakshi Ghulam Mohammad & Another 30** wherein it was held that a right of hearing cannot include a right of cross examination and the right must depend on the circumstance of each case and must also depend on the statute under which the allegations are being enquired into.

(iii) Merely because a transaction was done through banking channel itself cannot validate the same and the burden of proof is on the appellant to prove genuinely of the claim. The payment through banks, Purchase & Sales bills, Journal entries in registers and other features are only apparent features and these are the actual modus operandi whereas the real feature are the manipulated. Hence, these transactions would fall within the realm of suspicious and dubious transaction.

1.4 Attention is drawn to highlight the importance of reports of the investigating agencies and that would point out that it may be true that when transactions are through cheques it looks like real transactions but the authority is entitled to look behind the transactions and ascertain the motive behind the transactions.

(i) It was further argued by the appellant that the report of the DDIT is a Third-party information which has not been independently subjected to further Verification by the assessing officer who has not provided the copy of the statements to the appellants. Thus, the appellant thereby denying opportunity of cross examination to the appellant therein who had in the said case discharged the initial burden of substantiating the purchases through various documents is in violation of principle of natural justice. In support of such contention, reliance was placed by the appellant on the decision of the **Hon'ble Supreme Court in Odeon Builders**.

(ii) Firstly, we need to note that the report of the DDIT is by an authority of the investigation wing of the Income Tax department. Therefore, at the threshold it cannot be treated to be a third-party report. Therefore, in our view the decision in Odeon Builders is distinguishable.

(iii) In the Kavitha Gupta case, the Court noted the legal position that when an inquiry is launched under Section 143(3) of the Act, the findings will not depend only upon the presumption, the onus of proof could not be cast entirely upon the revenue and such onus would shift on the revenue only if the assessee produced some material to show that what she states may be correct.

(iv) The argument of the appellant is that despite specific written request made on behalf of the assessee to provide those persons from whom statements were recorded on oath to be cross examined. There is no dispute to the fact that the statement said to have been recorded during the course of Survey has not been furnished to the appellant and the request made for cross examining of those persons was not considered. The question would be as to whether the non-compliance of the above would render the assessments bad in law. The argument of the revenue is that the assessments cannot be held to be illegal merely on the grounds that the cross examination was not happened as the assessing officer have clearly mentioned as to the nature of investigation done by the department and as the report itself states that the investigation commenced not from the appellant end but the individuals who dealt with giving accommodation entries.

(v) It is equally true invariably in all such cases, the statement of the accommodation entry operators does not directly implicate the beneficiaries. If such being the situation, the appellant cannot be heard to say that the person from whom the statements were recorded should have been produced for cross examination as admittedly there is nothing to implicate the appellant

(vi) In State Bank of Patiala and Others Versus S.K. Shieves, the Hon'ble Supreme Court pointed out that violation of any and every procedural provision cannot be said to automatically vitiate the domestic enquiry held against the delinquent employee or the order passed by the disciplinary authority except in cases falling under no notice, no opportunity and no hearing categories. Further it was held that if no prejudice is established to have resulted from such violation of procedural provisions no interference is called for

against the ultimate orders. The test laid down was whether the person has received a fair hearing considering all things as the ultimate test is always the test of prejudice or the test of fair hearing as. Further the Hon'ble Supreme Court pointed out a distinction between a case of no opportunity and a case of no adequate opportunity and while examining the latter case, it was held that the violation has to be examined from the stand point of prejudice, in other words the Court or the tribunal has to see whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answers to the said query. Further it was held that there may be a situation where interest of the state or public interest may call for curtailing of rule of audi alteram partem and in such a situation the Court may have to balance public/state interest with the requirements of natural justice and arrive at an appropriate decision.

(vii) In a very recent decision of the Hon'ble Supreme Court in M.J.James after referring to a catena of decisions on the point the Hon'ble Supreme Court pointed out that natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more lead to the conclusion that prejudice is thereby caused. Where procedural and/or substantive provisions of law embodied the principles of natural justice, their infraction per-se does not lead to invalidity of the order passed. The prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest but also in public interest. The investigation has not commenced from the individuals but it has commenced who had dealt with accommodation entry providers, concept of working backwards. This is a very significant factor to be remembered. The endeavour of the department is to examine the "modus operandi adopted and in that process now seek to identify the appellants who have benefited on account of such "modus operandi". Therefore, considering the factual scenario no prejudice has been established to the appellants by not making the persons available for cross examination.

(viii) While on this issue, we need to consider as to whether and under what Circumstances the right the right of cross examination can be demanded as a vested right. In Kishanlal Agarwalla, the Hon'ble Division Bench of Calcutta High Court has pointed out that no natural justice requires that there should be a kind of formal cross examination as it is a procedural justice, governed by the rules and regulations.

Further it was held that so long as the party charged has a fair and reasonable opportunity would receive, comment and criticize the evidence, statements or records on which the charges is being against him, the demand and tests of natural justice are satisfied.

(ix) In Bakshi Ghulam Mohammad case, the Hon'ble Supreme Court held that the right of hearing cannot include the right of cross examination and the right must depend upon the circumstances of each case and must also depend on the statute under which the allegations are being enquired into. Having noted the above legal position, it goes without saying there is no vested right for the appellant to cross examine the persons who have not deposed anything against the appellant. The investigation report proceeds on a different perspective commencing from a different point and this has led to the enquiry being conducted by the assessing officer calling upon the appellant to prove the genuineness of the claim of his purchases and sales.

(x) The appellant have miserably failed to prove the test of prejudice or that the test of fair hearing has not been satisfied in their case. In this case, the appellant have been issued notices under Sections 143(2) and 142(1) of the Act they have been directed to furnish the documents, the appellant have complied with the directions, appeared before the assessing officer and represented by Advocates/Chartered Accountants, elaborate legal submissions have been made both oral and in writing and thereafter the assessments have been completed. Nothing prevented the appellant from mentioning that unless and until cross examination is permitted, they would not in a position to take part in the inquiry which is being conducted by the assessing officer in scrutiny assess..

(x) At this juncture, it would be of much relevance to refer to the decision in K. R. Ajmera. The question of law which arose for consideration before the Hon'ble Supreme Court was as to what is the degree of proof required to hold brokers/sub-brokers liable for fraudulent/manipulative practices under the SEBI Regulations and for violating the code of conduct of the SEBI (Stocks brokers and Sub-brokers) Regulations.

(xii) It was further pointed out that it is a fundamental principle of law that prove of an allegation levelled against a person may be in the form of direct substantive evidence or as in many cases such proof may have to be inferred by a logical process of reasoning from the totality of the attending

facts and circumstances surrounding the allegations/charges made and levelled. It was further held that direct evidence is a more certain basis to come to a conclusion yet in the absence thereof the courts cannot be helpless. It was further pointed out that it is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the Charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what Inferential process that a reasonable/prudent man would adopt to arrive at a conclusion, when over a period of time such dubious transactions have been made between the same set of accommodation entry providers, a conclusion can be reasonably reached that there is a concerted effort on the part of the stake holders concerned to indulge in synchronized fictitious trade transactions. Direct proof of such meeting of mind elsewhere would rarely be forthcoming and therefore the test is one of the preponderance of probabilities so far as the adjudication of a civil liability arising out of violation of the Act or to the Regulations. It is very rare and difficult to get direct information or evidence with regard to the prior meeting of minds of the persons involved in the manipulative activities of getting accommodation entries.

(xiii) Unfortunately, the appellant have been harping upon the transactions done by them and by relying upon the documents in their hands to contend that the transactions done were genuine. Unfortunately, the test of genuinity needs to be established otherwise, the appellant is lawfully bound to prove the purchase and sales transactions to be genuine.

(xiv) Thus, the appellant cannot be permitted to contend that the assessments were based on surmises and conjectures or presumptions or assumptions. Until and unless the initial burden cast upon the appellant is discharged, the onus does not shift to the revenue to prove otherwise. It is incorrect to argue that the appellant have been called upon to prove the negative in fact, it is the appellant duty to establish that the actual purchase and sales.

The appellant has relied on various court cases. It is noted that the facts of the cases are different. Here the statements were recorded on oath U/s 131 (1A) of the Income Tax Act, 1961 by the investigation wing of the department that too

during survey proceedings. Hence, the case laws are not applicable.

The documents produced by the appellant i.e. bank statement, purchase bills, sale bills, stock register, GST returns are all paper works done meticulously to make the transaction appear genuine whereas no actual purchase/sale has not taken place. These are mere entries. The appellant is not able to prove the actual movement of goods, as he has not submitted delivery challans or lorry receipts. Appellant's claim that the sale is based on Freight on pay basis does not come to his rescue. Nothing stops the appellant to collect such details from his customer to prove the goods have indeed moved. AO has also rightly brought out the inability of the appellant in his order by discussing the issue in page 11 of the Assessment order.

In view of the above, the grounds of the appellant **are noted as dismissed.**

Hence, the Assessment Order is upheld and the ground is noted as dismissed. In the end result, **the appeal is DISMISSED.**"

8. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us.

9. We have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home his contentions.

10. Shri Yogesh Sethia, Ld. Authorized Representative (for short 'AR') for the assessee, at the threshold of hearing has assailed the validity of the assessment that was framed by the A.O vide his order passed u/s. 147

r.w.s. 144B of the Act, dated 24.03.2023. Elaborating on his contention, the Ld. AR submitted that as the A.O had vide his notice issued u/s. 148A(b) of the Act, dated 21.03.2022 allowed insufficient time of 6 days to the assessee to furnish his reply to the queries and put forth an explanation as to why a notice u/s. 148 of the Act may not be issued to him, therefore, the same not being as per the mandate of law cannot be sustained and is liable to be struck down on the said count itself. The Ld. AR in support of his aforesaid contention had taken us through the provision of Clause (b) of Section 148A of the Act, as per which, time period being not less than 7 days but not exceeding 30 days from the date on which the notice is issued is to be allowed to the assessee to put forth an explanation that as to why notice u/s. 148 of the Act may not be issued on the basis of information collated by the A.O suggesting that the income of the assessee chargeable to tax had escapement for the relevant year. The Ld. AR in support of his aforesaid contention had relied on the judgment of the Hon'ble High Court of Chhattisgarh in the case of MM Wonder Park Private Limited Vs. Union of India & Others., Writ Petition (T) No.172 of 2022, dated 17.06.2022.

11. Per contra, Smt. Anubhaa Tah Goel, Ld. Sr. Departmental Representative (for short 'DR') relied on the orders of the lower authorities.

12. We have heard the learned authorized representatives of both the parties in the backdrop of the orders of the lower authorities. As the Ld. AR has assailed the validity of the assessment order passed by the AO u/s 147 r.w.s. 144B of the Act, dated 24.03.2023, *inter alia*, for the reason that the time limit allowed by the AO u/s 148A(b) of the Act was not as per the mandate of law, therefore, we shall first deal with the same.

13. As stated by the Ld. AR, and rightly so, section 148A(b) of the Act contemplates that the AO shall, before issuing any notice under section 148, provide an opportunity of being heard to the assessee, by servicing upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a). Admittedly, as per the mandate of Section 148A(b) of the Act, it is obligatory on the part of the A.O. to allow to the assessee a time period of not less than 7 days from the date on which such notice is issued to explain as to why based on the information shared with him a notice u/s.148 of the Act be not issued to him. However, we find, that in the present case, the A.O vide notice u/s 148A(b)

of the Act, dated 21.03.2022 by calling upon the assessee to show cause on or before 27.03.2022 that as to why notice u/s 148 of the Act be not issued to him had effectively allowed to him a time period of only 6 days to file his explanation.

14. As stated by the Ld. AR, and rightly so, the notice u/s 148A(b) of the Act, dated 21.03.2022 is not found to be in conformity with the mandate of law. We find, that **Hon'ble Jurisdictional High Court of Chhattisgarh** in the case of **MM Wonder Park Private Limited vs. Union of India & Others, passed in Writ Petition (T) No.172/2022, dated 17.06.2022**, had observed, that the A.O in the case before them had issued a show cause notice u/s 148A(b) of the Act giving just 7 days' time to the assessee company/petitioner to file its reply. The Hon'ble High Court, observed that the time period of 7 days provided to the assessee company vide notice u/s 148A(b) of the Act was unreasonably short, and thus, violative of principles of natural justice. Accordingly, the Hon'ble High Court in the aforementioned case had quashed both the order passed by the A.O. u/s 148A(d) of the Act, dated 04.04.2022 and the notice u/s 148 of the Act, dated 05.04.2022, and set aside the matter to the file of the A.O. with a direction to decide the matter afresh in accordance with law after affording an opportunity of being heard to the assessee/petitioner. For the sake of clarity, the observations of Hon'ble High Court are culled out as under:

“5. I have heard Learned Counsel appearing for the parties and perused the above referred to documents/Annexures and other material available with due care.

6. From perusal of the documents/Annexures, it appears that the order dated 4.4.2022 (Annexure P2) passed under Section 148A(d) of the Act has been passed with regard to a transaction which occurred in the financial year 2014-15 after serving a notice dated 25.3.2022 (Annexure P1) and giving a mere 7 days' time to the Petitioner/assessee to furnish a reply to the said notice. The time granted to the Petitioner/assessee to submit reply to the said notice appears to be unreasonable short and the Petitioner/assessee cannot be blamed for not being able to file the reply within such a short period. Thus, it appears that there is a violation of principle of natural justice. Therefore, the prayer made on behalf of the Petitioner/assessee appears to be reasonable. Thus, the order dated 4.4.2022 (Annexure P2) passed under Section 148A(d) of the Act and the notice dated 5.4.2022 (Annexure P3) issued under Section 148 of the Act are quashed and the Respondents are directed to afford proper opportunity of hearing to the Petitioner/assessee and thereafter decide the matter afresh in accordance with law.

7. Accordingly, the instant writ petition is allowed”

(emphasis supplied by us)

15. As the facts and issue involved in the present appeal before us, i.e., allowing of unreasonably short period of time by the A.O vide notice issued u/s 148A(b) of the Act remains the same as was there before the Hon'ble Jurisdictional High Court, therefore, we respectfully follow the same. We, thus, in terms of our aforesaid observations quash the order passed by the A.O. u/s 148A(d) of the Act, dated 30.03.2022 and also the notice issued u/s.148 of the Act, dated 30.03.2022, and restore the matter back to the file of the A.O. with a direction to afford a proper opportunity of being

heard to the assessee as per the mandate of section 148A(b) of the Act, and thereafter, decide the matter afresh in accordance with law. Thus, the **ground of appeal No. 1** is allowed for statistical purposes in terms of our aforesaid observations.

16. As we have set aside the matter to the file of the A.O. with a direction to re-decide the case after affording a reasonable opportunity of being heard to the assessee, therefore, we refrain from dealing with the other grounds of appeal based on which the validity of jurisdiction assumed by the A.O. for framing the assessment as well as the merits of the addition has been assailed by the Ld. A.R before us, which, thus, are left open.

17. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in open court on 13th day of January, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 13th January, 2025.

***SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT, Raipur-1 (C.G)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,

रायपुर / DR, ITAT, Raipur Bench, Raipur.

5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

