Reserved

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI G. NARENDAR
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

Date of Judgment:17.12.2025
Reserved on : 31.10.2025

INCOME TAX APPEAL No. 12 OF 2024

Principal Commissioner of Income Tax (Central), Kanpur.
....Appellant.

Versus

Rajan Rajesh Kumar ...Respondent

Counsel for the appellant	:	Mr. Hari Mohan Bhatia, learned counsel.
Counsel for the respondent / caveator	:	Mr. Sivaraman, Mr. C.S. Rawat and Mr. Vivek Kumar, learned counsels for the respondent.

JUDGMENT : (per Sri G. Narendar, C.J.)

The appeal was listed for admission and as the issue for determination lies in a narrow compass the appeal was taken up for disposal. Heard learned counsel for the appellant and the learned counsel for the respondent.

2. Appellant, Principal Commissioner of Income Tax (Central), Kanpur, is before this Court being aggrieved by the judgment and order dated 08.02.2024, whereby the Appellate Tribunal was pleased to allow the Appeal of the respondent.

3. By the said judgment and order, the Second Appellate Authority was pleased to dispose of two Appeals preferred by the assessee/respondent assailing the assessments for the years 2015-16 and 2016-17.

4. The case, canvassed by the Assessee before the Appellate Tribunal, is that there is non-compliance with the mandatory provisions of Sections 148, 149 and 151 of the Income Tax Act, 1961; that the appreciation of the materials by the A.O. is perverse; that the assessee had filed his returns for the year 2015-16 declaring a total income of Rs. 6,54,730/-; that the returns were made on 15.08.2015.

5. That on 08.09.2015 and 18.04.2017, a survey & search operation were conducted under Section 133A & 132 of the Act against one Sri Amit Sharma. It is the case of the revenue that said Amit Sharma is a contractor of Uttar Pradesh Rajkiya Nirman Nigam Limited (*hereinafter referred to as* 'UPRNN'for the sake of brevity). That the said Amit Sharma was a beneficiary of largesse in the form of award of contracts by the respondent, who abused his position as MD of the State Infrastructure and Industrial Development Corporation of Uttarakhand Ltd (*hereinafter referred as* 'SIDCUL' for the sake of brevity).

6. It is the case of the Revenue that the civil contracts of SIDCUL were awarded to UPRNN, as per government order and the said Amit Sharma was one of the sub-contractors of UPRNN and as the contracts were awarded by SIDCUL to UPRNN, the respondent, as MD, was in a position to influence the decisions to award the contracts to sub-contractors; that

during the search, two loose sheets were found and entries therein revealed transactions in bullions, silver and cash to the tune of about Sixteen crores favouring the respondent.

7. The fact that the UPRNN and SIDCUL are two different entities / State-owned Corporations with separate chain of commands and management is fairly admitted.

8. In the light of the law laid down by the Hon'ble Apex Court in the case of ***CBI vs. VC Shukla*** reported in ***(1998) 3 SCC 410*** and ***Common Cause vs. UOI (Sahara Diaries) (SC)*** reported in ***[2017] 77 taxmann.com 245 (SC)***, it was contended by the assessee that loose sheets are not admissible form of evidence. To the contrary, the Revenue contended that the loose papers are not dumb papers, but are live documents, which have got basis for entries written on it; and that an entry in the said pages (LP 186 & 187) pertaining to third party-one Sanjay Rawat was also assessed and addition was made to his income. That, the header on the top of the sheet, records a name 'Sri Rajesh MD' and that the same refers to the respondent and the amounts and articles, were directly received by the assessee, in his capacity as MD of SIDCUL. It was also contended that there is a close nexus between the assessee and the said Amit Sharma.

9. Before the Appellate Tribunal, it was contended by the respondent that the A.O. has failed to follow the

mandatory provisions of Sections 147 to 151 of the Act; that the file was first sent to the DCIT-Central on **05.09.2019** and the file was sent for approval within the stipulated period of four years. The Competent Authority u/s 151, by proceedings dated 18.03.2020, refused to grant sanction, on the premise that the reasons / grounds recorded by the A.O. fail to corroborate the contents of page Nos. 186 & 187 nor are other material / documents placed to demonstrate the same. That the A.O. has blindly premised his request for approval only on the strength of the entries in page Nos. 186 & 187 without any independent material to corroborate the same. That after the refusal, the JCIT (OSD) once again recorded reasons and this time forwarded the same to PCIT, Kanpur on **23.06.2020**, by which time, the period of four years from the end of Assessment Year had passed-by. The assessee would particularly point out the regularly changing "quantum of escaped income". In the earliest proposal, the escaped income was recorded as Rs. 16.72 crore. In the second proposal, the escaped income was recorded as Rs. 13.16 crore. It is further elaborated that the reasons recorded were the reasons that were not approved by the Competent Authority during the first round. The second proposal also did not come to fruition or rather the fate of which is not made known. While so, again on **08.10.2020**, ACIT, Dehradun

once again recorded the reasons and forwarded the proposal for approval to PCIT, Kanpur u/s 151 of the Act and this time, the escaped income was recorded as Rs. 13.16 crore and Rs. 15.85 crore with Diary No. 756. The said proposal was not approved and it was recorded that the officer placing the proposal must discuss the reasons in detail. Yet again, on **07.12.2020**, the ACIT, Central Circle, Dehradun sent one more proposal for the 4th time and the reasons were verbatim (this is vehemently denied by the appellant's Counsel who states that a 11 page note was prepared, but for reasons to be recorded later this controversy is not of relevance) to the reasons set forth earlier and this time round, PCIT, Kanpur granted sanction without raising any query or seeking clarification.

10. It is contended that the fact of non-application of mind is reflected by the fact that the PCIT, who granted sanction / approval u/s 151 of the Act, is the same authority, who had filed the Rule-9 report Before the Settlement Commission, in the case of the said Amit Sharma; that the Competent Authority's approval of the reasons alleging income of Rs. 13.16 crore were contrary to his own observations made before the Settlement Commission.

11. In toto, it is contended that the fact of lack of independent application of mind is reflected by repetition of

the reasons, which were earlier discarded and hence, the approval is mechanically granted and that too without looking into material records. That the sanctioning authority has failed to appreciate the fact that the very same authority as recorded a mere rupees twenty lakhs as the sum attributable to the respondent.

12. Before the Tribunal, the respondent relied on the following judicial pronouncements and sought for setting aside the assessment order and the order of the CIT (A):

> "*A.* ***Central India Electric Supply Co. Ltd vs. ITO (2011) 333 ITR 237 (Del.): 51 DTR 51 (Del.)***
> *B. CIT having mechanically granted approval for reopening of assessment without application of mind, the same is invalid and not sustainable.-[****German Remedies Ltd. vs. DCIT (2006) 287 ITR 494 (Bom.)****]*
> *C. Power granted u/s 151 cannot be exercised casually:-* ***United Electrical Co. P. Ltd. v. CIT (2002) 258 ITR 317 (Del.)***
> *D.* ***CIT vs. Goyanka Lime 237 Taxman 378 (SC) CIT vs. N.C. Cables-98 CCH 18 (Del)***
> *E.* ***Chuga Mal Rajpal- 79 ITR 603 (SC) Larger Bench****.*"

13. Per contra, the Revenue contended that the approval granted is in accordance with law.

14. The undisputed fact is that action was initiated by the A.O. under Section 147 of the Act on the basis of the documents, i.e. LP 186 & 187 impounded during the course of the search & survey operations conducted against Amit Sharma and Ram Assay Sharma. It is not in dispute that no

other independent material has been relied upon or placed before the Tribunal or this Court.

15. The Tribunal has also made a copy of the said Pages 186 & 187 as part of the order and is found at Pages 11 and 12 of the impugned order. The Tribunal has also extracted the relevant portion of the proposals and the same reads as under:-

> "*During the period mentioned above Shri R. Rajesh Kumar was posted with SIDCUL and was holding the post of M.D., and was having close nexus with Shri Amit Sharma, the assessee surveyed. During enquiries conducted by Investigation Wing, it is found that Shri R. Rajesh Kumar was residing in the house owned by Shri Amit Sharma. He was also person responsible of work of issuing work order of various contracts to Shri Amit Sharma and his concerns. Shri R. Rajesh Kumar was issued summons / notices by the DDIT (Inv). Dehradun with the request to explain these entries appearing in the impounded material. Initially, he avoided the hearing but later on he filed written submissions denying knowledge of these entries, but he could not extend any convincing replies to these queries, as such his explanation is not worthy of truth.*
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> *Further, the entries appearing in Annexure A/SE-19 page 13 were also not explained satisfactorily., Shri V.K. Rajan, Father of Shri R. Raejesh Kumar termed these entries to be friendly loans. But this claim is not corroborated from the books of accounts of Shri Amit Sharmaand his concerns. As such, these entries are actually the payment by Shri Amit Sharma and his concerns to Shri R. Rajesh Kumar under the camouflage of bank transfer to Shir V.K.Rajan as Shir V.K. Rajan has received these payment for no visible reasons.*
>
> *It is evident from the above facts that the assessee had not truly and fully disclosed of his income for the year under consideration thereby necessitating reopening u/s 147 of the Act. In view of the above facts of this case and the assessment year under consideration I have reasons to believe that the income chargeable to tax to the extent of Rs. 16,72,73,160/- has escaped*

assessment. Therefore, it is proposed to initiate proceedings u/s 147/148 of the I.T. Act in this case."

16. The Tribunal has also reproduced the submissions of the very same PCIT made in the report forwarded by the PCIT under Rule-9 to the Settlement Commission in respect of the settlement proceedings in respect of Amit Sharma, a sub-contractor of UPRNN.

17. The said fact has been dealt with by the Tribunal in Paragraph-13. In Paragraphs 11 and 12, the Tribunal has recorded the repetitive (five) proposals. In Paragraph 14, the Tribunal has observed that the figure mentioned by the very same PCIT, who accorded approval, was a sum of Rs. 20 Lacs to the assessee and Rs. 30 Lacs to the house owner of the house one Mr. Malhotra. That, the PCIT after recording a figure of Rs. 20 Lacs, in its report under Rule 9, the very same PCIT has accepted the figure of 13.26 crore, recorded by the A.O.. It has recorded that this blind acceptance by the very same PCIT, reflects non-application of mind and renders the approval accorded, a mechanical one.

18. In Paragraph 15, the Tribunal, placing reliance on the ruling in the case of ***Central India Electric Supply Co. Ltd. vs. Income Tax Officer and another***, (***ITA No. 17 / 1999*** disposed of on 28.01.2011), has proceeded to hold the approval granted is a mechanical act and without application

of mind. It has further relied on the ruling of the Bombay High Court in ***German Remedies Ltd. vs. Deputy Commissioner of Income Tax*** (***Writ Petition No. 619 and 621 of 2021***, decided on 28.10.2025), the judgment of the High Court in the case of ***United Electrical Company (P) Ltd. vs. Commissioner of Income Tax and others*** (***Civil Writ Petition No. 5746 and CM No. 9769/2002***, decided on 10.10.2002) and the order of the Hon'ble High Court of Madhya Pradesh in the case of ***Commissioner of Income Tax vs. S. Goyanka Lime and Chemicals Ltd.*** (***ITA No. 82 to 84 & 87 to 89 of 2012***, decided on 14.10.2014) and finally, on the ruling of the Hon'ble Apex Court in ***Chhugamal Rajpal vs. S.P. Chaliha & others*** reported in ***(1971) 79 ITR 0603***. The relevant paragraphs have been extracted by the Tribunal in support of its findings.

19. In Paragraph-16, the Tribunal has recorded that there is no independent application of mind by the approving authority and the very same grounds and reasons, which were earlier rejected on two occasions and not approved on two occasions, have been accorded approval in the fifth round. The Tribunal, in Paragraph-17, has also discussed the allegations of nexus and the reasons for the alleged illegal gratification, i.e. the award of contracts to Amit Sharma. The Tribunal has also made out a chart in tabular form consisting

of three columns under the heads 'Facts mentioned in reasons', 'Correct facts' and 'Remark'. The tabular chart is reproduced hereunder:-

Facts mentioned in reasons	Correct facts	Remarks
The AO observed that entries of cheque amounts pertaining to father of the assessee are actually the entries of the assessee and hence Mr V.K. Rajan version that these are friendly loans is not correct. Page number 64 of the paper book of sanctions i.e. reasons recorded.	In the assessment of father the revenue accepted the transactions of payment of loan and repayment of loan as correct.	Order of Assessment of father Page No-11-12 Therefore the belief of the AO that entries are actually related to assessee is not correct.
The A.O. has alleged that the assessee has awarded contracts to Amit Sharma-See page Number-64 Para-6 of the reasons recorded	Amit Sharma was sub contractor of UPRNN he was getting contracts from UPRNN a UP Govt undertaking. Page Number-5 of the Commission order Para 4.1. Facts submitted by the same CIT who granted sanction to the AO for 148	Assessee was not an officer of UPRNN
Income escaped in the hands of the assessee is Rs. 13,16,50,000/-	The PCIT while filing report of rule before the Commission has alleged that total Rs. 50 lakhs have been paid to Rajesh Kumar	See submissions of the PCIT before Commission (Page No.7 para 4.5)

20. In Paragraph 18, the Tribunal has extracted the reply by the Department, wherein they have accepted the

returns by the said V.K. Rajan (father of the assessee), as the income of the father only. In Paragraph 19, the Tribunal has recorded that though assessments in respect of the father were re-opened under Section 148 of the Act, but no additions were made. It concludes in Paragraph 19 that there was no tangible material and the A.O. proceeded on an entirely wrong belief. In Paragraph 20, the Tribunal has appreciated the provisions of Section 147 of the Act of 1961 in the light of the law laid down by the Hon'ble Apex Court in the case of ***ITO vs. Lakhmani Mewal Das*** reported in **[1976]** ***103 ITR 437 (SC)*** to hold that the "*reason to believe*" cannot be equated with "*reason to suspect*". Elaborating further, the Tribunal has relied on the findings of the Hon'ble Apex Court that vague feeling or suspicion of the Assessing Officer towards possible escapement would not be a ground to permit reopening of completed assessment in defiance of statutory requirements.

21. In Paragraph-21, the Tribunal relied on the case of ***Ganga Prasad Maheshwari vs. CIT*** reported in **(1983) 139 ITR 1043 (All)** and followed the Hon'ble Apex Court's exposition of law regarding "*reason to believe*", wherein the Hon'ble Apex Court was pleased to hold that before the Officer accepts a fact to exist, there must be justification for it and on the basis of the above discussion, concluded in Paragraph-22

that the approval was a mechanical one and hence, the assumption of jurisdiction by the AO was bad in law.

22. Learned counsel for the Revenue/Appellant would vociferously contend that the Tribunal failed to appreciate the transactions denoting the flow of funds (in cash, bullion, diamond and cheques) towards the assessee; that they were relatable to him on the basis of two direct evidences; that the papers were not dumb papers and were live incriminating papers as the same recorded entries of payments to the father of the assessee, i.e. Sri V.K. Rajan and he would place reliance on the ruling of the Jharkhand High Court in the case of ***Mahabir Prasad Rungta vs. CIT(A)*** reported in ***(2014) 266 CTR 175*** to contend that additions could be made on the basis of loose papers if the situation so warranted. Secondly, it is contended that attributing income on the basis of circumstantial evidence and human probabilities were also accepted by the Hon'ble Supreme Court, in the case of ***Sumati Dayal vs. CIT*** reported in **(1995)** ***214 ITR 801*** and ***CIT vs. Durga Prasad More*** reported in ***(1971) 82 ITR 540 (SC).*** That the AO after exploring the nexus or proximal working connection of the assessee with Shri Amit Sharma and such examination being indicative of a strong connection with Shri Sharma, hence, the payment as written in Pages LP 186 & 187 were attributed to the assessee, but it is fairly

admitted that several of the alleged incriminating entries pertain to third party, including the father of the assessee; that after excluding such entries, the escaped assessment is crystallized at Rs. 11,40,50,000/- for the Assessment Year 2015-16; that the Appeal to the First Appellate Authority-CIT (Appeals) came to be rightly rejected. It is contended that the Second Appellate Authority, i.e. the Tribunal erred in allowing the Appeal without dwelling upon the merits of the case and erred in merely granting relief on the basis of legal grounds raised; Elaborating further he would contend that the Tribunal ought to have appreciated the material facts and; that the Tribunal erred in relying on the ruling rendered by the Hon'ble Apex Court in the case of ***Lakhmani Mewal Das*** (supra) and another ruling rendered by the Allahabad High Court in the case of **Ganga Prasad Maheshwari** (supra).

23. It is vehemently contended that the two loose papers numbered as 186 & 187 of the LP are incriminating materials that were impounded during the search & survey operation on 08.09.2015 and that they formed the basis and the reason to believe for the A.O. to seek reopening. It is further contended that the impounded documents contain reference to payments by way of cash, cheque transactions, gold-biscuits and diamonds and there is a date-wise narration in the loose sheets under the Header 'Sir Rajesh MD'

demonstrating proximity between the assessee and the said Amit Sharma-a sub-contractor of UPRNN, who was favoured and the reasons are obvious as the works of SIDCUL are awarded to UPRNN and hence, the assessee, as the MD of SIDCUL, is capable of influencing the decisions in the matter of award of sub contract(s). Thus, even according to the Department, the contracts are executed by UPRNN and the works awarded to UPRNN are not on account of any competitive bidding but on account of a policy of the Government, whereby in repect of all civil works, the SIDCUL is put in charge of executing the same and by Government Order, the SIDCUL is required to award the contract to UPRNN, which, in turn, engages sub-contractors for executing the works. Despite this mandatory condition the revenue has presumed that the respondent had direct influence to control of sub-contracts by SIDCUL.

24. The other limb of argument, canvassed by the learned counsel for the appellant, is that the sanction letters, issued by SIDCUL and addressed to UPRNN, were found in the premises of Shri Amit Sharma. This in our firm opinion is not a prejudicial fact once it is admitted that he is a sub-contractor and it would be in usual course for him to be in possession of the same. That the impounded papers mentioned payments to one Shri Sanjay Rawat, the then AGM

of SIDCUL; that the above facts formed the basis for the A.O.'s reason to believe.

25. Learned counsel for the revenue/appellant has placed reliance on several rulings of the Hon'ble Apex Court as well as of various High Courts.

26. Learned counsel for the respondent/assessee, apart from reiterating the contentions canvassed before the Tribunal regarding non-application of mind and the approval being vitiated by a mechanical approach, has contended that there is no provision for repeated re-presentation of the proposal or for review and re-approval once the proposal stood rejected.

27. Having heard the counsels at length, it is relevant to traverse the provisions of Sections 148, 148A and 151 of the Act, which read as under:-

> **"*[148. Issue of notice where income has escaped assessment.*** *-Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:*
>
> *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 and the Assessing Officer has obtained prior approval of the specified authority to issue such notice:

[Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section.]

Explanation 1.—For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

(i)any information [***] in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

[(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or

(v) any information which requires action in consequence of the order of a Tribunal or a Court.]

Explanation 2.—For the purposes of this section, where,—

(i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or

(ii) a survey is conducted under section 133A, other than under sub-section (2A) [***] of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other

person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee [where] the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.]

[Section 148A. Conducting inquiry, providing opportunity before issue of notice under section 148*.-The Assessing Officer shall, before issuing any notice under section 148, —*

(a) *conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;*

(b) *provide an opportunity of being heard to the assessee, by serving upon him a notice to show-cause within such time, as may be specified in the notice, being not less than seven days and 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 u/s 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);*

(c) *consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);*

(d) *decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires –*

Provided *that the provisions of this section shall not apply in a case where,—*

(a) *a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or*

(b) *the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned u/s 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or*

(c) *the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search u/s 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee; or*

(d) *the Assessing Officer has received any information under the scheme notified u/s 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.*

Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151.

151. Sanction for issue of notice.-*Specified authority for the purposes of section 148 and section 148A shall be,—*

(i)Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii)Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.]

28. The other limb of argument that is canvassed and on account of which, the counsel for the appellant would seek

remand is the non-compliance with Section 29 of the Act. It is contended that additional material could not have been brought on record before the Tribunal without invoking the provisions of Section 29 of the Act. Per contra it was contended by the learned counsel for the respondent that “the records” are the records that have been furnished by the Department to the respondent and the Tribunal records do not disclose any objection having been raised for the production and marking of the document. Having acquiesced to the production of the document, more pertinently the documents originating from and issued by the Department and issued to the respondent, the said objection requires to be negatived and the learned counsel for the revenue has fairly conceded the same.

29. From the facts and circumstances narrated above, it is apparent that the proposed questions of law framed by the appellant/Revenue are more in the nature of questions of fact and adjudication of the same would call for adjudication of facts, which is impermissible.

30. The provisions of Section 260A of the Act of 1961 clearly mandate that what is required to be gone into at the time of adjudicating the Appeal is a substantial question of law.

31. The only question that arises for consideration is, whether the multiple presentations / repeated re-presentation, of the proposal for initiation of proceedings u/s 148 to the Competent Authority u/s 151, is permissible under the Act of 1961?

32. Learned counsel for the appellant/revenue would contend that neither Section 148, nor Section 151 of the Act of 1961 bars multiple presentations or re-presentation of the proposal; that in the absence of a bar, it is open for the A.O. to seek approval any number of times. In this regard, it is pertinent to note that this query was posed to the learned counsel for the appellant and along with the said query, the appellant was also asked to clarify as to whether any mechanism or remedy is available under the scheme of the Act to the A.O. in the event of refusal of approval by the Competent Authority.

33. As regards the second query, the learned A.O. has fairly conceded that there is no remedy available to the A.O. in the event of the Competent Authority refusing approval.

34. The very fact that the scope and ambit of the Act of 1961 does not provide for any remedy / remedies to the A.O. against the order of approval of the Competent Authority under Section 151 of the Act of 1961 would go to show that the Parliament intended to give a finality to the proceeding

with the order of the Competent Authority under Section 151 of the Act of 1961.

35. De-hors the above this Court has proceeded to analyze the Act to determine whether the Parliament intended to give finality to the proceedings at the hands of the Competent Authority itself? Chapter-XX of the Act of 1961 provides for remedies by way of Appeals and Revisions. Section 246 of the Act of 1961 provides for remedy of Appeal to assessee before the Joint Commissioner (Appeals). Provisions of Section 246 refer to the orders under Sections 143, 144, 147, 200A, 201, 206C, 206CB, an order imposing penalty under Chapter XXI, an order under Section 154 or Section 155. Nowhere the provision refers to the order/sanction/approval of the Competent Authority under Section 151 of the Act of 1961.

36. A perusal of Section 246A, which provides for Appeal before the Commissioner (Appeals), refers to Sections 115VP, 200A, 206CB, 143, 144, 144BA, 115WE, 115WF, 115WG, 147, 150, 153A, 92CD, 154, 155, 163, 170, 171, 185, 186, 201 etc., but does not provide for an Appeal against the order under Section 151 of the Act of 1961.

37. Section 248 of the Act of 1961 refers to Section 195. Section 252 of the Act of 1961 deals with establishment

of Appellate Tribunal. Section 253 deals with Appeals to the Appellate Tribunal.

38. A bare perusal of the provisions of Section 253, more particularly sub-section (1) would obviate any further digression, as it does not provide for any Appeal to the proceedings by the Competent Authority under Section 151 of the Act of 1961.

39. Section 260A of the Act of 1961 provides for Appeals to High Court and a bare reading of sub-sections (1) & (2) would demonstrate that the Appeals to the High Court are to arise out of the orders of the Appellate Tribunal. The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal, are entitled to invoke the appellate jurisdiction of the High Court. It is apparent and as rightly conceded by the appellant's counsel, there is no remedy available against the orders / proceedings of the Competent Authority under Section 151 of the Act of 1961. Thus, it can be safely presumed that the order under Section 151 of the Act of 1961 is not an appealable order.

40. We next move on to examine the provisions of Section 263 of the Act of 1961, which provides for revision of orders prejudicial to the revenue. A reading of sub-section (1)

and various clauses would further clarify and buttress the view of this Court that the proceedings / the orders passed by the Competent Authority under Section 151 of the Act of 1961 are not revisable under Section 263 of the Act of 1961 but only such of those orders passed by officers/authorities, subordinate to the Competent Authority u/s 151.

41. Next, we examine the ambit of Section 264 of the Act of 1961, which deals with revision of other orders. It enables the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, either on their own motion or on an application by the assessee for revision, to call for the records of any proceedings under this Act, in which such order has been passed and to make such inquiry or cause any such inquiry to be made and subject to the provisions of this Act they may pass such orders thereon not being an order prejudicial to the assessee as he thinks fit.

42. The catch lies in the phrase "*an authority subordinate to him*". Apparently, the Competent Authority u/s 151 is Principal Commissioner, or Principal Director, or Commissioner or Director, or Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General under Section 151 of the Act of 1961.

43. The proceedings seeking initiation under Section 148 or 148A are not orders, as sought to be contended by the appellant's counsel. Thus, a close examination of Chapter-XX of the Act of 1961 would reveal and clarify that the order of the Competent Authority granting sanction or approval or refusing to grant sanction or approval u/s 151 of the Act of 1961 is neither a revisable order, nor an appealable order. The nomenclature of Section 151, or the heading of Section 151 reads as "*sanction for issue of notice*", implying thereby the mandatory nature of the said provision. If it was the opinion of the law-makers that the proposal is capable of being re-presented or re-visited multiple times and if it was the opinion of the law-makers that it is merely and a sheer administrative action, the law-makers would have certainly provided for the same.

44. The law of interpretation insofar as taxing statutes are concerned is one of strict interpretation. In that view, the contention that in the absence of a bar, the proposal can be presented and re-presented or re-visited any number of times is without substance.

45. It is an undeniable fact that the proceedings result in initiation of adjudicatory proceedings, which could culminate in adverse civil consequences to the assessee. It is also not in doubt that the proceedings / orders under Section

151 of the Act of 1961 are subject to judicial review, as they are orders, which are capable of resulting in adverse civil and penal consequences on the assessee.

46. Learned counsel for the appellant would fairly concede that the proceedings under Sections 147 to 151 are subject to judicial review.

47. In that view and in view of the fact that it is no more *res integra* that the settled law in this regard being reflection of application of mind, this Court can safely conclude that the law-makers and the Parliament did not deem it necessary to vest a power of review in the Competent Authority. The Act being a self contained Code, be it with regard to Appeals and Revisions, the omission to provide a remedy against the same buttresses the opinion of this Court that the Parliament intended to give a finality at the hands of the Competent Authority.

48. A useful reference could be made to the law laid down by the Hon'ble Apex Court with regard to the finality of the proceedings.

49. The Hon'ble Supreme Court in the case of **Rashid Khan Pathan vs. Vijay Kurle and others** reported **in (2021) 12 SCC 64** has held as under:

> *"10. In a country governed by the rule of law, finality of the judgment is absolutely imperative and great sanctity is attached to the finality of the judgment. Permitting the parties*

to reopen the concluded judgments of this Court by filing repeated interlocutory applications is clearly an abuse of the process of law and would have far-reaching adverse impact on the administration of justice [Indian Council for Enviro-Legal Action v. Union of India, (2011) 8 SCC 161 : (2011) 4 SCC (Civ) 87] .

11. Repeated filing of applications which are not maintainable, amounts to abuse of process of law. O. Chinnappa Reddy, J. in ***Advocate General v. M.P. Khair Industries [Advocate General v. M.P. Khair Industries, (1980) 3 SCC 311*** *: 1980 SCC (Cri) 688] was of the opinion that abuse of process of courts amounts to criminal contempt. In the said case, the respondent was accused of filing repeated applications and obstructing the administration of justice which interfered with the due course of judicial proceedings.*

13. In ***Dnyandeo Sabaji Naik v. Pradnya Prakash Khadekar [Dnyandeo Sabaji Naik v. Pradnya Prakash Khadekar, (2017) 5 SCC 496*** *: (2017) 3 SCC (Civ) 189] , D.Y. Chandrachud, J., speaking for a three-Judge Bench held that courts are obligated to act firmly in dealing with abuse of process, and impose exemplary costs when necessary. Chandrachud, J. held : (SCC pp. 504-05, paras 13-14)*

> *"13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.*
>
> *14. Courts across the legal system—this Court not being an exception—are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalises such behaviour. Liberal access to justice does not mean access to chaos and indiscipline. A strong*

message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner."

50. The Hon'ble Apex Court in the case of **Supertech Ltd. v. Emerald Court Owner Resident Welfare Association and Others**, reported in **(2023) 10 SCC 817** has held as under:

"11. More recently, another two-Judge Bench in Rashid Khan Pathan, In re [Rashid Khan Pathan, In re, (2021) 12 SCC 64 : (2023) 1 SCC (Cri) 438] held as follows : (SCC p. 68, para 10)

"10. In a country governed by the rule of law, finality of the judgment is absolutely imperative and great sanctity is attached to the finality of the judgment. Permitting the parties to reopen the concluded judgments of this Court by filing repeated interlocutory applications is clearly an abuse of the process of law and would have far-reaching adverse impact on the administration of justice."

13. The hallmark of a judicial pronouncement is its stability and finality. Judicial verdicts are not like sand dunes which are subject to the vagaries of wind and weather [See, Meghmala v. G. Narasimha Reddy, (2010) 8 SCC 383 : (2010) 3 SCC (Civ) 368 : (2010) 3 SCC (Cri) 878] . A

disturbing trend has emerged in this Court of repeated applications, styled as miscellaneous applications, being filed after a final judgment has been pronounced. Such a practice has no legal foundation and must be firmly discouraged. It reduces litigation to a gambit. Miscellaneous applications are becoming a preferred course to those with resources to pursue strategies to avoid compliance with judicial decisions. A judicial pronouncement cannot be subject to modification once the judgment has been pronounced, by filing a miscellaneous application. Filing of a miscellaneous application seeking modification/clarification of a judgment is not envisaged in law. Further, it is a settled legal principle that one cannot do indirectly what one cannot do directly ("Quando aliquid prohibetur ex directo, prohibetur et per obliquum").

14. Further, there is another legal principle which is applicable in the present case. It is that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden [Taylor v. Taylor, (1875) LR 1 Ch D 426] . Hence, when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all and other methods of performance are necessarily forbidden [Nazir Ahmad v. King Emperor, 1936 SCC OnLine PC 41 : (1935-36) 63 IA 372] . This Court too, has adopted this maxim [Parbhani Transport Coop. Society Ltd. v. RTA, 1960 SCC OnLine SC 46 : AIR 1960 SC 801] . This rule provides that an expressly laid down mode of doing something necessarily implies a prohibition on doing it in any other way."

51. The fact that the proposals are to be preceded by reason to believe and the approval/sanction ought to be after application of mind would clearly demonstrate that the exercise of powers under Sections 147 to 151 of the Act of

1961, though subjective in nature, are to be relatable to an objective assessment of the material.

52. It is no more *res integra* that power of review is not an inherent power, but one that is to be statutorily conferred by law. The right to seek review is neither a natural, nor a fundamental right. If the contention of the appellant's counsel is accepted it could lead to a far greater mischief and in the hands of unscrupulous officers become a tool to keep alive an issue for infinity. Every disgruntled A.O. or every successor A.O., who has a different opinion, would tend to re-open the files and seek initiation of proceedings resulting in endless litigation. In this regard, we place reliance on the ruling of the Hon'ble Apex Court in the case of ***Assistant Commissioner, Income Tax, Rajkot Vs. Saurashtra Kutch Stock Exchange Ltd*** (***Civil Appeal No. 1171 of 2004***, disposed of vide judgment dated 15.09.2008), wherein the Hon'ble Apex Court has been pleased to hold as under:-

> *"10. The learned counsel for the Revenue submitted that the Tribunal committed an error of law and of jurisdiction in exercising power under sub-section (2) of Section 254 of the Act and in recalling its earlier order passed in appeal. It was submitted that the Tribunal is a statutory authority (though not an 'income tax authority' under Section 116) and is exercising power conferred by the Act. It has no 'plenary' powers. It has no power to review its own decisions. Power under Section 254(2) can be exercised in case of any 'mistake apparent from the record'. According to the counsel, even if the order passed by the Tribunal was incorrect or wrong in law, it would not fall within the connotation 'mistake apparent on record'. If the assessee was aggrieved by the said*

order, it could have challenged the order by taking appropriate proceedings known to law. Miscellaneous Application under Section 254(2) of the Act was not maintainable. Again, the order passed under Section 254 by the Tribunal is final under sub-section (4) of the said section. By invoking the jurisdiction under sub-section (2) of the said section, the statutory 'finality' cannot be destroyed or the provision cannot be made nugatory. The Tribunal, therefore, could not have allowed the application and recalled its earlier order as there was no error apparent on the record. The Revenue, therefore, challenged the said order. Unfortunately, however, the High Court committed the same error and dismissed the writ petition. The order passed by the High Court also suffers from similar infirmity. Both the orders, therefore, are required to be quashed and set aside.

17. Having heard learned counsel for the parties, two questions have been raised by the parties before us. Firstly, whether the Income Tax Appellate Tribunal, Gujarat was right in exercising power under sub-section (2) of Section 254 of the Act on the ground that there was a 'mistake apparent from the record' committed by the Tribunal while deciding the appeal and whether it could have recalled the earlier order on that ground. Secondly, whether on merits, the assessee is entitled to exemption as claimed.

21. Plain reading of sub-section (1) of Section 254 quoted hereinabove makes it more than clear that the Tribunal will pass an order after affording opportunity of hearing to both the parties to appeal. Sub-section (4) expressly declares that save as otherwise provided in Section 256 (Reference), "orders passed by the Appellate Tribunal on appeal shall be final". Sub-section (2) enacts that the Tribunal may at any time within four years from the date of the order rectify any mistake apparent from the record suo motu. The Tribunal shall rectify such mistake if it is brought to notice of the Tribunal by the assessee or the Assessing Officer.

22. Sub-section (2) thus covers two distinct situations; (i) It enables the Tribunal at any time within four years from the date of the order to amend any order passed under sub-section (1) with a view to rectify any mistake apparent from the record; and (ii) It requires the Tribunal to make such amendment if the mistake is brought to its notice by the assessee or the Assessing Officer.

24. There is, however, no dispute by and between the parties that if there is a 'mistake apparent from the record' and the assessee brings it to the notice of the Tribunal, it must exercise power under sub-section (2) of Section 254 of the Act. Whereas the learned counsel for the Revenue submitted that in the guise of exercise of power under sub-section (2) of Section 254 of the Act, really the Tribunal has exercised power of 'review' not conferred on it by the Act, the counsel for the assessee urged that the power exercised by the Tribunal was of rectification of 'mistake apparent from the record' which was strictly within the four corners of the said provision and no exception can be taken against such action.

25. The learned counsel for the Revenue contended that the normal principle of law is that once a judgment is pronounced or order is made, a Court, Tribunal or Adjudicating Authority becomes functus officio [ceases to have control over the matter]. Such judgment or order is 'final' and cannot be altered, changed, varied or modified. It was also submitted that Income Tax Tribunal is a Tribunal constituted under the Act. It is not a 'Court' having plenary powers, but a statutory Tribunal functioning under the Act of 1961. It, therefore, cannot act outside or de hors the Act nor can exercise powers not expressly and specifically conferred by law. It is well-settled that the power of review is not an inherent power. Right to seek review of an order is neither natural nor fundamental right of an aggrieved party. Such power must be conferred by law. If there is no power of review, the order cannot be reviewed.

26. Our attention, in this connection, was invited by the learned counsel to a leading decision of this Court in Patel Narshi Thakershi & Ors. V. Pradyumansinghji Arjunsinghji, (1971) 3 SCC 844. Dealing with the provisions of the Saurashtra Land Reforms Act, 1951 and referring to Order 47, Rule 1 of the Code of Civil Procedure, 1908, this Court held that there is no inherent power of review with the adjudicating authority if it is not conferred by law.

27. The Court stated;

> *"It is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to our notice from which it could be gathered that the Government had power to review its own order. If the Government had no*

> *power to review its own order, it is obvious that its delegate could not have reviewed its order".*
>
> *(emphasis supplied)*

> *28. The view in Patel Narshi Thakershi has been reiterated by this Court in several cases. It is not necessary for us to refer to all those cases. The legal proposition has not been disputed even by the learned counsel for the assessee."*

53. Thus, if the Act of 1961, as mandated by the Finance Act, 2023, is viewed in the background of the law as settled by the Hon'ble Apex Court, as noted supra, it is apparent that the Scheme of the Act does not vest any review power in the A.O. or the Competent Authority.

54. In that view, the multiple presentation and re-presentation of the proposal by the A.O. was without jurisdiction and the act of the Competent Authority granting approval after the same had been rejected at the very initial stage itself was also an act without jurisdiction and we hold that the proceedings of the Competent Authority impugned for granting sanction under Section 151 of the Act of 1961 dated 08.01.2021 are wholly without jurisdiction.

55. That apart, we have perused the Loose Papers 186 & 187. The Page commences with the Header "*Sri Rajesh*" and the following alphabets, on a close scrutiny, read as "M" and "P". The second alphabet is in the form of alphabet "P", but the same has been read as "D" and, thereby, the A.O. has

drawn a presumption that it is Rajan Rajesh Kumar, Managing Director of SIDCUL.

56. Assuming and even granting the benefit of doubt to the A.O., there are multiple entries and reference to multiple persons, including multiple individuals and real estate entities.

57. The fact remains that the name of the father of the respondent also finds place there, but unfortunately for the appellant, the revenue has accepted and added the same as the income of the father.

58. That apart, the appellant's counsel was not able to point out any corroborative material to corroborate the assumption and presumption of the A.O. that the respondent has facilitated the grant / award of tenders by UPRNN. Admittedly, the UPRNN (Uttar Pradesh Rajkiya Nirman Nigam Ltd.) is an independent State Government undertaking having it's own hierarchy of administration and the respondent was the Managing Director with a Chairman and Board of Directors above him, administering an altogether different entity, though yet again another State Government undertaking called the SIDCUL (State Infrastructure and Industrial Development Corporation of Uttarakhand Ltd).

59. Reliance of the appellant on the judgment of the Hon'ble Apex Court in the case of **S. Narayanappa and others vs. Commissioner of Income Tax** reported in **1967**

(63) ITR 219 (Paragraph-4), in our considered opinion, is wholly inapplicable to the facts and circumstances of the present case.

60. In addition to the above, learned counsel for the appellant has also placed reliance on the following rulings of the Hon'ble Apex Court as well as of various High Courts:

1. Union of India vs. Rajeev Bansal 2024(469) ITR 46 (Para-4)
2. Shrivastava Associates vs. Income Tax Officer (2025) 174 taxmann.com 247 (Chattisgarh) (Paras 10 to 15)
3. Commissioner of Income Tax vs. Ku. Pa. Krishnan (2012) 25 taxmann.com 130 (Madras) (Paras 10 to 12)
4. Roshan Di Hatti vs. Commissioner of Income Tax (1977) 107 ITR 938 (SC) (Para 3)
5. Commissioner of Income Tax vs. Sahara India [2013] 33 taxmann.com 550 (Allahabad) (Para-19)
6. Raymond Woollen Mills Ltd. vs. Income Tax Officer [1999] 236 ITR 34 (SC) (Para-3)
7. Kantibhai Dharamshibhai Narola vs. Assistant Commissioner of Income Tax, Ward 3(2)(4) [2021] 125 taxmann.com 348 (Gujarat) (Para-32).
8. Mahabir Prasad Rungta vs. Commissioner of Income-tax (Appeals), Ranchi [2014] 43 taxmann.com 328 (Jharkhand) (Paras 15 to 18)
9. Commissioner of Income Tax vs. Durga Prasad More [1971] 82 ITR 540 (SC) (Paras 8 to 11)
10. Sumati Dayal vs. Commissioner of Income Tax [1995] 80 Taxman 89 (SC) (Paras 4 & 6)
11. Ashok Kumar vs. Commissioner of Income Tax-I, Patna [2016] 69 taxmann.com 129 (Patna) (Paras 12 to 18)
12. Venky Steels (P) Ltd. vs. Commissioner of Income Tax [2024] 167 taxmann.com 60 (Patna) (Para 11)
13. Experion Developers (P.) Ltd. vs. Assistant Commissioner of Income Tax [2020] 115 taxmann.com 338 (Delhi) (Para 42)
14. Isidore Fernandes vs. Assistant Commissioner of Income-tax [2024] 160 taxmann.com 216 (Bombay) (Para-19)

61. The above judgments, relied on by the learned counsel for the appellant, are not relevant for the issue framed for determination of the appeal.

62. Learned counsel for the respondent has also relied on the following rulings of the Hon'ble Apex Court as well as of various High Courts:

1. **Central Bureau of Investigation vs. V.C. Shukla and others** reported in **(1998) 3 SCC 410.**
2. **Common Cause (A Registered Society) vs. Union of India** reported in **[2017] 77 taxmann.com 245 (SC)**
3. **German Remedies Ltd. vs. Deputy Commissioner of Income Tax reported** in ***(2006) 287 ITR 494 (Bom.)****]*
4. **United Electrical Company (P) Ltd. Vs. Commissioner of Income Tax** reported in ***(2002) 258 ITR 317 (Del.)***
5. **Commissioner of Income Tax Vs. S. Goyanka Lime & Chemicals Ltd.** reported in **[2015] 64 taxmann.com 313 (SC)**.
6. **Central India Electric Supply Co. Ltd. vs. Income Tax Officer** reported in **[2011] 10 taxmann.com 169 (Delhi)**.
7. **Commissioner of Income Tax vs. Kelvinator of India Ltd.** reported in **[2010] 187 Taxman 312 (SC)**.
8. **The State of Telangana vs. C. Shobha Rani** (**Criminal Appeal No. 4955 of 2024**, decided on 03.12.2024)
9. **State of Himachal Pradesh vs. Nishant Sareen** (**Criminal Appeal No. 2353 of 2010**, decided on 09.12.2010).
10. **Principal Commissioner of Income-tax-6 Vs. Meenakshi Overseas (P.) Ltd. [2017] 82 taxmann.com 300 (Delhi)**.
11. **Chhugamal Rajpal vs. S.P. Chalina** reported in **[1971] 79 ITR 603 (SC)**.
12. **Vinod Kumar Solanki vs. Assistant Commissioner of Income Tax** (**W.P. (C) 4196 of 2022 & CM Appl. 39982/2022**, decided on 14.08.2024).
13. **KLM Royal Dutch Airlines Vs. Assistant Director of Income Tax [2007] 159 Taxman 191 (Delhi)**.

63. The above said rulings in no way aid in determination of the question of law formulated by this Court and are of no avail to the appellant.

64. In the absence of any material to demonstrate proximity between the parties subjected to scrutiny and search and the respondent, the presumption drawn by the AO that illegal gratification was in lieu of the works awarded to him as the sub-contractor of UPRNN would lead us to suspect the sanctity of the reasons to believe, which formed the foundation for exercise of powers conferred under the Act.

65. In view of the above, we answer the question framed above against the appellant/revenue and in favour of the respondent/assessee. Accordingly, the Appeal stands dismissed without being admitted.

G. NARENDAR, C.J.

SUBHASH UPADHYAY, J.

Dt: 17th December, 2025
Rathour

PRAVINDRA SINGH RATHOUR