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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ ITA 36/2024 & CM APPL. 2317/2024 (delay of 30 days' in filing appeal) & cm appl. 2318/2024 (delay of 417 days' in re-filing appeal)

COMMISSIONER OF INCOME TAX -10 DELHI

..... Appellant  
Through: Mr. Abhishek Maratha, Mr. Parth Semwal, Ms. Nupur Sharma, Advs.

versus

GM OVERSEAS ..... Respondent  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE YASHWANT VARMA**  
**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

**ORDER**  
**15.01.2024**

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1. Notice. Although the respondent is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called. Consequently, let learned counsel for the appellant take steps for service upon the said respondent through all permissible modes including via approved courier service. The respondent may file a reply, if so chosen and advised, within a period of four weeks from today.

2. Prima facie, we take note of the contention addressed by Mr. Maratha who draws our attention to the following findings as were recorded by the Commissioner of Income Tax (Appeals) in its order:-

“ A detailed examination was made of the submissions of the appellant, order of the AO, reasons recorded and the facts of the



case emerging from all the documents relied upon by the AO during the course of reassessment. It is evident that consequent upon 132A action on 09.03.2015, gunny bags containing documents pertaining to the financial dealings of Asram Babu at the Delhi Ashram came into the possession of the Income Tax department. Information pertaining to the financial dealings of Asaram babu were also retrieved from the computer data backup as well as pen drives found in the gunny bags. During post-search proceedings, several beneficiaries of Asram Babu's moneylending business were identified and statement of Sh Devidas Tikamdas Chattani alias Dev Kumar, a close confidant of Asaram Babu was recorded wherein he stated under oath that Rs 200 crore was disbursed as loan from the Delhi ashram of Asaram Babu through one Sh Santlal Aggarwal bearing an alias of 'Bhagat'. In his statement recorded on oath Sh Dev kumar, who incidentally had done the cash audit of loans at the Delhi Ashram, gave names of several entities who had received loans from 'Bhagat'. Subsequently, on 09.03.2016 a survey action was conducted on the office premises of Sh. Sant Lai Agarwal at 5586 Lahori Gate, Naya Bazar, Delhi as well as 802 Ambadeep Building, Connaught Place, New Delhi. During the course of survey, account statement of M/s Index Securities & Research (P) Ltd was found and impounded. During the course of survey and post-survey proceedings, it was ascertained that M/s GM Overseas is one of the entities who has received credit of Rs. 4,00,00,112 from Asra Babu through Index Securities & Research (P) Ltd. Further, during the course of a search and survey action conducted at the premises of M/s KRBL group it was found that M/s Index Securities & Research (P) Ltd has provided accommodation entry to KRBL group of companies. A survey u/s 133A was also conducted at the business premises of M/s Index Securities And Research (P) Ltd (ISRPL). A search was also conducted at premises of the Directors of ISRPL and during the course of statements recorded of the said directors, it was admitted that ISRPL was a paper company doing no business and only involved in giving loan accommodation entries to various companies. This company was actually run By Sh Santlal Aggarwal and Sh Satish Pahwa.

The above information was received by ACIT Circle 48(1), New Delhi. Based on this information the AO formed a prima facie belief that income to the extent of Rs 4,00,00,000/- had escaped assessment. On the basis of this water-tight information received which was backed by statements of admission and ledger account unambiguously reflecting the disbursement of loan of Rs 4,00,00,000/- as accommodation entry, the AO after independent and due application of mind formed a prima facie belief that income to the extent of Rs 4,00,00,000/- had escaped assessment.



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The claim of the assessee was examined. It is a fact that this loan of Rs. 4,00,00,000/- was reflected in the books of account of the appellant. It is also a fact that no adverse inference was drawn in this regard during the first round of assessment. However, subsequently 'fresh and cogent' material came to light. During the course of survey on Sant Lal Aggarwal, Asaram Bapu's cohort, account statement of M/s Index Securities & Research (P) Ltd was found and Impounded. During the course of survey and post-survey proceedings, it was ascertained that M/s GM Overseas is one of the entities who has received credit of Rs. 4,00,00,112/- from Asaram Bapu through Index Securities & Research (P) Ltd. Further, during the course of search and survey action conducted at the premises of M/s KRBL group it was found that M/s Index Securities & Research (P) Ltd had provided accommodation entry to KRBL group of companies. A survey u/s 133 A was also conducted at the business premises of M/s Index Securities And Research (P) Ltd (ISRPL). A search was also conducted at premises of the Directors of ISRPL and during the course of statements recorded of the said directors, it was admitted that ISRPL was a paper company doing no business and only involved in giving loan accommodation entries to various companies. This company was actually run by Sh Santlal Aggarwal and Sh Satish Pahwa. It is obvious that the fact of the loan accommodation entry came into the possession of the Department only after the various serac/survey operations conducted on Santa Lal Aggarwal, Index Securities & Research (P) ltd and its directors. ”

3. It is in the aforesaid context and backdrop that Mr. Maratha assails the conclusions recorded by the Income Tax Appellate Tribunal [**“Tribunal”**] as reflected in paragraph 17 of the impugned order wherein the following has been observed:-

“17. The various other decisions relied on by the Id. Counsel for the assessee also support his case to the proposition that in absence of any allegation of failure on the part of the assessee to disclose fully and truly all material facts necessary for the completion of the assessment, no reassessment proceedings can be initiated after a period of four years from the end of the relevant assessment year when the original assessment has been completed u/s 143(3) of the Act. We, therefore, hold that the re-assessment proceedings initiated in the instant case by the AO is not in accordance with the law and, therefore, we. quash the same. Since the assessee succeeds on this legal ground, the various other grounds challenging the validity of reassessment proceedings as well as the



addition on merit become academic in nature and, therefore, the same are not being adjudicated.”

4. Matter requires consideration. Let the appeal be called again on 23.04.2024.

**YASHWANT VARMA, J.**

**PURUSHAINDRA KUMAR KAURAV, J.**

**JANUARY 15, 2024/neha**