29. Since the assessee succeeds on this legal ground, the other grounds challenging the addition on merit are not being adjudicated. The appeal filed by the assessee is accordingly allowed.

ITA No.535/PUN/2026 (A.Y. 2013-14)

30. Facts of the case, in brief, are that the assessee filed its return of income on 28.12.2013 declaring total income of Rs.22,36,110/- which was processed vide order passed u/s 143(1) of the Act on 26.08.2014. Subsequently, on the basis of information received from the Investigation Wing, Kolkata, the Assessing Officer reopened the assessment by recording the following reasons:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT
COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE 1, AUR'BAD

To,
LOMBARD REALTY PRIVATE LIMITED
B-60/B ,Station Road Bhandup West
MUMBAI 400001,Maharashtra
India

PAN:	Assessment Year:	Dated:	DIN & Letter No :
AABCL9202D	2013-14	22/09/2020	ITBA/AST/F/17/2020-21/1028028361(1)

Sir/ Madam/ M/s,

Subject: Reasons for proceedings u/s 147 of the Income-tax Act, 1961

Please refer to the above mentioned subject and reference.

A notice u/s 143(2) r.w.s 147 of the Income Tax Act, 1961 has been issued vide notice dated 18/09/2020 by this office. In the said notice reason has been provided in short. In the interest of natural justice complete reason for initiating proceedings u/s 147 in your case for AY 2013-14 is as under:

*1. **Brief Details of Assessee:** The above-mentioned assessee has filed its return of income for A.Y 2013-14 on 28/12/2013 declaring total income of Rs. 22,36,110/-. The said return of income was processed u/s 143(1) of the I.T.Act, 1961.*

*2. **Brief details of information received: (a)** The DDIT(Inv.), Unit 3(4), Kolkata vide letter No. DDIT/U-3(4)/2/Tanish/18-19/11646 dated 01.03.2019 has forwarded information that during investigation proceedings in the case of M/s Tanisha Suppliers Pvt. Ltd. & its related beneficiary entities huge non-cash amount was deposited into the bank account of M/s Tanisha Suppliers Pvt. Ltd. having account number 9511112448 with Kotak mahindra Bank Ltd. Then the funds from this account were transferred to the bank account of the beneficiary companies. **The company Lombard Realty Pvt. Ltd. is one of the beneficiary company and indicative amount is Rs. 20,00,000/-**. The financial status of the company was checked in ITD and from there it was gathered that the company M/s Tanisha Suppliers Pvt. Ltd. had very poor financial record. Moreover, the assessee status in MCA was checked and there its status mentioned as "Stike Off". On the basis of enquiry/findings, it was stated that the transactions are unexplained and needs to be*

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,Aayakar Bhavan, OPP. HOLY CROSS ENGLISH HIGH SCHOOL, AURANGABAD, Maharashtra, 431002
Email: AURANGABAD.DCIT.CEN1@INCOMETAX.GOV.IN.

verified. Further, vide letter No. DDIT/U-3(4)/Dristi/18-19/1246 dated 28.02.2019 has forwarded information that during investigation proceedings in the case of M/s Dristi Dealers Pvt. Ltd. & its related beneficiary entities it was found that huge non-cash amount was deposited into the bank account of M/s Dristi Dealers Pvt. Ltd. having account number 9111112633 with Kotak Mahindra Bank Ltd. Then the funds from this account were transferred to the bank account of the beneficiary companies. It was stated that M/s Dristi Dealers Pvt. Ltd. has no financial worth as it has very poor financial history and did not file its ITR for the assessment year 2012-13. ***The company Lombard Realty Pvt. Ltd. is one of the beneficiary company and indicative amount is Rs. 60,00,000/-.*** *Seeing financial history of the assessee company, its non-compliance to the notice & summons and transaction pattern in the account gave impression that this account was used for layering and providing accommodation entry. On the basis of enquiry/findings, it was stated that the transactions are unexplained and needs to be verified.*

(b) The DDIT(Inv.), Unit-6, Kolkata vide letter No. DDIT(Inv)/Kol/Unit-6/Anup Agarwal/2018-19/3063-71 dated 07.03.2019 has forwarded information that during investigation proceedings in the case of Anup Agarwal (Prop. of Anup Trading Co., S.R.Trading Co.). It has been informed by the DDIT(Inv.), Unit-6, Kolkata that the entities opened current accounts with Brabourne Road Branch of the Dhanlaxmi Bank Ltd. during 2010-11 and large value of transactions without having any economic rationale, including RTGS and inter-se-transfers are seen in these accounts. Then the funds from this account were transferred to the bank account of the beneficiary companies. ***The company Lombard Realty Pvt. Ltd. is one of the beneficiary company and indicative amount is Rs.36,00,000/-.*** *On the basis of enquiry/findings, it was stated that all the entities are shell/paper entity whose bank accounts have been used to providing accommodation entities in form of share capital/premium, unsecured loan, bogus billing, bogus LTCG/STCL etc. On the basis of enquiry/findings, it was stated that the transactions are unexplained and needs to be verified.*

(c) The ITO(Inv.), Unit-1, Kolkata vide letter No. ITO(Inv.)/Kol/Unit-1/Info./2018-19/23/9511 dated 04.03.2019 has forwarded information that during investigation proceedings in the case of M/s Axisline Agencies Pvt. Ltd.(AAJCA3349Q) & its related beneficiary entities that huge amounts of funds were credited into the bank account of M/s Axisline Agencies Pvt. Ltd. having account number 0060102000109284 with IDBI Bank, Kolkata, which were subsequently withdrawn mostly by way of RTGS transfer keeping low balance in the account. ***The company Lombard Realty Pvt. Ltd. is one of the beneficiary company and indicative amount is Rs. 1,35,00,000/-.*** *On the basis of enquiry/findings, it was stated that the assessee M/s Axisline Agencies Pvt. Ltd. is a shell entity operated and*

controlled by various entry operators involved in providing bogus accommodation entries in the form of bogus billings (to inflate turnover)/unsecured loans/share premium etc. to the beneficiary concerns, thereby assisting in tax evasion on a large scale. On the basis of enquiry/findings, it was stated that the transactions are unexplained and needs to be verified.

(d) The DDIT(Inv.), Unit 4(3), Kolkata vide letter No. DDIT(Inv.)/Unit-4(3)/Kol/1088672/2018-19/5189-207 dated 01.03.2019 has forwarded information that during investigation proceedings in the case of Gopal Das(PAN-ATSPD3081D),Gautam Banerjee (PAN-AIFPB0197E) and the various beneficiaries that large value cash deposit in the a/c & immediate withdrawal by RTGS to other accounts in the same bank, transfer to accounts with other bank, wherein the transferee firms are doing business from same address but in different line of activity, and final closure of bank accounts has aroused suspicion. ***The company Lombard Realty Pvt. Ltd. is one of the beneficiary company and indicative amount is Rs. 85,00,000/-.*** *On the basis of enquiry/findings, it was stated that the transactions are unexplained and needs to be verified.*

(e) The ITO(Inv.), Unit-4, Kolkata vide letter No. ITO(Inv.)/Unit-4/2018-7331/22856-71 dated 08.03.2019 has forwarded information that during investigation proceedings in the case of M/s Raj Impex (Prop. Rajesh Agarwal, PAN-ATMPA6382Q) & other beneficiaries that on scrutiny of the Saving bank A/c 0101050033488 of Raj Impex, it revealed that the bank account was opened on 08/02/2012 and from 08.02.2012 to 30.06.2012 there is high turn over in the newly opened account (Cr. Rs. 12591.19 lakh & Dr. Rs. 12590.97) within just 144 days and the debit and credit turn over are more or less same, which were subsequently withdrawn mostly by way of RTGS transfer keeping low balance in the account. ***The company Lombard Realty Pvt. Ltd. is one of the beneficiary company and indicative amount is Rs. 1,50,00,114/-.*** *On the basis of enquiry/findings, it was stated that the the beneficiary company have brought back their unaccounted income into their regular books of accounts in the guise of bogus share/unsecured loans etc. There was no other financial rationale behind such transactions and the transactions are sham transactions. On the basis of enquiry/findings, it was stated that the transactions are unexplained and needs to be verified.*

3. Analysis of information collected/received: *On verification of data available with this office, it is seen that assessee had performed huge financial transaction and during the financial year 2012-13 i.e assessment year 2013-14, total incoming funds are to the tune of Rs. 4,86,00,114/-. The extent of such accommodation entries taken may be much more. This is because, the assessee may have taken accommodation entries in other bank accounts from other such bogus concerns, which needs to* *enquired. Thus, the assessee has entered into suspicious and prima-facie bogus financial transaction, which has been done to suppress its profit.*

4. ***Enquiries made by AO as sequel to information collected/received:*** *The information was also received in this case for the assessment year 2012-13 and assessment has been completed by this office. A Search & Seizure action in the case of M/s Tapadia Group of Aurangabad was conducted. During the course of Search & Seizure actions it was learnt that M/s Lombard Realty Pvt. Ltd. is a shell Company acting as conduit for providing accommodation entries to other companies. During A.Y 2012-13, M/s Lombard Realty Pvt. Ltd. has acted as conduit and invested Rs. 50,00,000/- as share capital in Tapadia Construction Ltd. and the same has been added in the hand of M/s Tapadia Construction Ltd.*

5. ***Finding of the AO:*** *On the basis of above findings from the information provided by investigation wing and due diligence thereof from the records, it is found that assessee has taken accommodation entries. Further, this office has also examined the facts of the case independently and it is found that, there is failure on the part of the assessee to disclose fully and truly all the material facts necessary for its assessment for the year under consideration. Therefore, I have reason to believe that the income chargeable to tax under the provisions has escaped assessment to the extent of Rs. 4,86,00,114/-.*

6. ***Basis of forming reason to believe and details of escapement of income****: In this case a return of income was filed for the year under consideration but not scrutiny assessment done u/s 143(3)/144 as per ITD system. Accordingly, in this case, the only requirement to initiate proceedings u/s 147 of the Act is reason to believe which has been recorded in above Paragraphs.*

7. ***Details of escapement of income chargeable to tax in relation to any asset located outside India****: Not applicable.*

8. ***Applicability of provisions of section 147/151 to the facts of the case:*** *In this case, a return of income was filed for the year under consideration but not scrutiny assessment done u/s 143(3)/144 as per ITD system. Accordingly, in this case, the only requirement to initiate proceedings u/s 147 of the Act is reason to believe which has been recorded in above Paragraphs. In view of the above, the provision of clause (b) of Explanation 2 to section 147 are applicable to facts of this case and the assessment year under consideration is deemed to be a case where income chargeable to tax has escaped assessment.*

In this case, more than four years have lapsed from the end of assessment year under consideration. Hence, necessary sanction to issue notice u/s 148 of the Act is required from the Principal Commissioner of Income Tax (Central), Nagpur as per the provisions of section 151 of the Act. ***Time limit for issue of notice u/s 148 of the Act is 31.03.2020.***

VIJAY RAM NETKE
CENTRAL CIRCLE 1, AUR'BAD

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

31. Accordingly, the Assessing Officer issued notice u/s 148 of the Act and served on the assessee in response to which the assessee filed its return of income on 19.05.2020 declaring total income of Rs.22,36,110/-. Subsequently statutory notices u/s 143(2) and 142(1) were issued and served on the assessee in response to which the assessee filed the requisite details. The Assessing Officer also issued notices u/s 133(6) of the Act to the entities in question which were returned back from the postal authorities as 'unserved'.

32. During the course of assessment proceedings the Assessing Officer observed that the assessee during the financial year 2012-13 relevant to assessment year 2013-14 has received funds totaling to Rs.4,86,00,114/- from the following parties towards share capital and share premium:

Sr. No.	*Name of the persons from whom funds received*	*PAN*	*Amount (in Rs.)*
1	*M/s. Tanisha Suppliers Pvt Ltd*	*AACCT9955C*	*20,00,000*
2	*Dristi Dealers Pvt Ltd*	*AACCD6747N*	*60,00,000*
3	*Anup Agrawal (Prop. Anup Trading Co., SR trading company)*	*AVPPA8424P*	*36,00,000*
4	*M/s. Axisline Agencies Pvt Ltd*	*AAJCA3349Q*	*1,35,00,000*
5	*Gopal Das & Gautam Banerjee*	*ATSPD3081D & AIFPB0197E*	*85,00,000*
6	*Raj Impex*	*ATMPA6382Q*	*1,50,00,114*
	Total		*4,86,00,114*

33. After issue of notice the Assessing Officer also received information from other offices of Investigation Wings, Kolkata that the assessee has received funds totaling to Rs.1,50,00,000/- from the following parties:

Sr. No.	*Name of the persons from whom funds received*	*PAN*	*Amount (in Rs.)*
1	*M/s Bandhan Saree*	*CSLPS6793R*	*80,00,000/-*
2	*Shivashiv Deal Trade Pvt Ltd*	*AARCS5635F*	*20,00,000/-*
3	*Foremost Vintrade Pvt Ltd*	*AACCF0149G*	*50,00,000/-*
	Total		*1,50,00,000/-*

34. He, therefore, asked the assessee to explain as to why an amount of Rs.6,36,00,114/- received in lieu of sale of investments from shell companies should not be treated as unaccounted cash credit u/s 68 of the Act. Rejecting the various explanations given by the assessee and relying on various decisions, the Assessing Officer made addition of Rs.6,36,00,114/- to the total income of the assessee on the ground that the assessee failed to satisfy the conditions of section 68 of the Act.

35. Before the Ld. CIT(A) the assessee apart from challenging the addition on merit, challenged the validity of re-assessment proceedings. However, the Ld. CIT(A) was not satisfied with the arguments advanced by the assessee and upheld the validity of re-assessment proceedings as well as the addition on merit.

36. So far as the validity of the re-assessment proceedings the Ld. CIT(A) dismissed the same by observing as under:

Findings and Decision of the Appellate Authority:

6.3 I have carefully considered the impugned Assessment Order, the reasons recorded for reopening, the detailed submissions of the appellant and the remand report of the AO. The appellant has challenged the validity of reopening primarily on the ground that the notice u/s 148 of the Act was issued on the basis of "borrowed satisfaction" and without any independent application of mind by the AO.

6.4 On examination of the material on record, it is evident that the AO had received specific, tangible and credible information from the Investigation Wing, Kolkata, identifying the appellant as a beneficiary of accommodation entries routed through several entities having negligible or nil financial capacity, non-filing status, or being struck off as per MCA records. The information was entity-specific, quantified, and supported by transaction details, bank account analysis and findings of investigation. The AO did not act mechanically on such information; rather, he independently verified the same with reference to the appellant's return of income, bank accounts and available records before recording reasons to believe that income chargeable to tax had escaped assessment. The reasons so recorded clearly demonstrate a live link between the information received and the formation of belief regarding escapement of income.

6.5 The contention of the appellant that the reopening is based on mere suspicion or borrowed satisfaction is therefore not acceptable. At the stage of initiation of proceedings u/s 147 of the Act, what is required is the existence of prima facie material giving rise to a reasonable belief, and not conclusive proof of escapement of income. The sufficiency of the material cannot be gone into at this stage. In the present case, the information received from the Investigation Wing, coupled with the AO's due diligence and verification from departmental databases, constituted "information" within the meaning of the proviso to section 148 and was adequate to justify initiation of reassessment proceedings.

6.6 The judicial precedents relied upon by the appellant are distinguishable on facts, as in those cases reopening was struck down either due to absence of any independent application of mind or lack of tangible material linking the appellant to the alleged transactions. In contrast, in the present case, the AO has clearly demonstrated independent satisfaction based on specific information pointing towards accommodation entries received by the appellant. Further, the reopening has been duly approved by the competent authority in accordance with law.

6.7 In view of the above facts and circumstances, I hold that the AO had valid reason to believe that income chargeable to tax had escaped assessment and the initiation of proceedings u/s 147 by issuance of notice u/s 148 is in accordance with law. Accordingly, Ground No. 1 raised by the appellant challenging the reopening of the assessment is **dismissed**.

37. So far as the merit of the case is concerned, the Ld. CIT(A) upheld the same by observing as under:

Findings and Decision of the Appellate Authority:

7.6 I have carefully considered the impugned Assessment Order, the submissions made by the appellant during the appellate proceedings, the remand report of the AO, the rejoinders filed by the appellant, and the material available on record. These grounds relate to the addition of Rs.6,36,00,114/- made by the AO u/s 68 of the Act by treating the amounts credited in the books of the appellant as unexplained cash credits, and the allegation that the AO proceeded with a preset mind without considering the submissions of the appellant. Since both the grounds are interlinked and arise out of the same set of facts, they are taken up together for adjudication.

7.7 The Assessing Officer made the impugned addition on the basis of specific information received from the Investigation Wing, Kolkata, which identified the appellant as a beneficiary of accommodation entries routed through several entities having negligible or nil income, weak financial credentials and, in some cases, being struck off as per MCA records. During the reassessment proceedings, the appellant was repeatedly called upon to substantiate its claim that the amounts credited in its bank account represented genuine sale consideration of investments (shares) and to furnish supporting documentary evidence such as share certificates, transfer deeds, valuation reports as per Rule 11UA/11U, board resolutions of investee companies and confirmations. However, despite sufficient opportunity, the appellant failed to furnish these crucial documents.

7.8 Further, the appellant has specifically contended that no money was received during the relevant previous year from Gopal Das & Gautam Banerjee, Bandhan Saree, Anoop Agarwal and Shivashiv Deal Trade Pvt. Ltd. In support of this contention, the appellant submitted that he had submitted to the AO, copies of its bank statements and books of account for the relevant period, showing that no credits were received from the aforesaid persons/entities. During the appellate proceedings also, the appellant furnished the bank statements and relevant books of account. On examination of the said bank statements and cash book, it is observed that no corresponding credit entries appear in respect of these parties during the year under consideration. The AO has also not brought on record any independent bank material or documentary evidence conclusively establishing actual receipt of funds from these parties in the hands of the appellant.

7.9 Although the AO relied upon information received from the Investigation Wing, such information by itself, without corroboration from the appellant's bank account or other primary evidence, cannot conclusively establish receipt of funds. Further, the appellant has explained the inconsistency in its earlier submission regarding Shivashiv Deal Trade Pvt. Ltd. as an inadvertent error, and the same is supported by the absence of any corresponding bank credit. In view of these facts, the contention of the appellant that no money was received from Gopal Das, Gautam Banerjee, Bandhan Saree, Anoop Agarwal and Shivashiv Deal Trade Pvt. Ltd. is found to be factually acceptable. **Consequently, no addition u/s 68 (Total amount Rs. 2,21,00,000) can be sustained in respect of alleged credits pertaining to these parties. However, as an abundant caution, AO is directed to verify the bank accounts before giving the appeal effect on this issue.**

7.10 In respect of the remaining parties, particularly M/s Tanisha Suppliers Pvt. Ltd., Dristi Dealers Pvt. Ltd., Axisline Agencies Pvt. Ltd. and Raj Impex, it is an admitted position that substantial amounts were credited in the books and bank account of the appellant during the year. The appellant's explanation that these receipts represent sale consideration of investments has not been substantiated with primary and mandatory evidences such as share certificates, duly executed transfer deeds, valuation reports as per Rule 11UA/11U, or board resolutions of the investee companies. Mere assertion of sale of shares, without proof of transfer of ownership and valuation, is insufficient to establish the genuineness of the transactions.

7.11 Further, notices issued u/s 133(6) to the concerned entities were returned unserved, and the financial credentials of these entities, as emerging from the Investigation Wing reports and available records, reveal negligible or nil income and absence of real business activity. In such circumstances, the appellant has failed to discharge the onus cast upon it under section 68 of the Act to establish identity, creditworthiness and genuineness of the transactions. The routing of funds through banking channels, by itself, does not render the transactions genuine when surrounding circumstances clearly indicate accommodation entries.

7.12 As regards the submission of the Assessing Officer in the remand report seeking enhancement of the addition in the case of Raj Impex, I have considered the facts available on record, remand report, submission of the appellant, reply to the show cause u/s 251. It is seen from the appellant's own ledger account that a total sum of Rs.2,50,00,000/- was received from Raj Impex during the relevant previous year. The Assessing Officer, while framing the assessment, considered only Rs.1,50,00,114/- for the purpose of addition. Since the fact of receipt of Rs.2,50,00,000/- stands established from the appellant's own books, and the appellant has failed to satisfactorily explain the nature and source of the entire amount in accordance with section 68 of the Act, the contention of the AO that the balance amount of Rs.99,99,886/- also represents unexplained cash credit is **found to be justified and therefore accepted.** The appellant has not brought any material on record to demonstrate that the remaining amount stands on a different footing or is otherwise explained. **In view of this, income on this account is enhanced by Rs.99,99,886/-. Penalty proceedings u/s 271(1)(c) in initiated for furnishing inaccurate particulars of income.**

7.13 With regard to Ground No. 4, alleging non-consideration of submissions and a preset mindset on the part of the AO, I find no merit in this contention. The assessment records show that notices were issued, replies were called for, submissions were examined, and even third-party verifications were attempted. Merely because the explanation offered by the appellant was not accepted, it cannot be said that the AO acted with a predetermined view.

7.14 In view of the above discussion, while the appellant's contention regarding non-receipt of money from Gopal Das, Gautam Banerjee, Bandhan Saree, Anoop Agarwal and Shivashiv Deal Trade Pvt. Ltd. is accepted and the addition to that extent is not sustainable, the additions in respect of the remaining parties are upheld. Further, the enhancement proposed by the AO in respect of Raj Impex is found to be justified on merits and is accepted. **In view of this, the appellant gets net relief of Rs 1,21,00,114 (2,21,00,000- 99,99,886).**

38. Aggrieved with such order of the Ld. CIT(A) the assessee is in appeal before the Tribunal by raising the following grounds:

1. *On the facts and circumstances of the case and in law, the Ld. A.O. has erred by initiating the reassessment proceedings u/s 147 of the I.T. Act, 1961 and by issuing the notice u/s 148 of the I.T. Act, 1961 since the same is grossly incorrect, invalid and bad in law.*