IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.A.No.2176 of 2021
and C.M.P.No.13751 of 2021

Indian Syntans Investments Pvt. Ltd.,
Rep. by its Director, Mr.N.Narayanan
No.71, Third Main Road, Kasturba Nagar,
Adyar, Chennai 600 020. .. Appellant

-vs-

The Deputy Commissioner of Income Tax,
Company Circle II (3),
121, Nungambakkam High Road,
Chennai 600 034. .. Respondent

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 28.04.2021 passed in W.P.No.14021 of 2014 on the file of this Court.

For Appellant : Mr.R.Sivaraman

For Respondent : Mr.B.Ramana Kumar
Sr. Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by the Hon'ble Chief Justice)

We see no reason to interfere with the impugned order. It cannot be said that there is no tangible material and the learned Single Judge was correct in dismissing the writ petition and permitting re-assessment to proceed with.

2. Though it is correct that an Assessing Officer cannot reopen an assessment merely on the basis of change of opinion even within a period of four years and he has no power to review an assessment which has been concluded, but where he has tangible material to come to the conclusion that there is an escapement of income from assessment, the power to reopen can be exercised. At the stage when the Assessing Officer reopens an assessment, it is not necessary that the material before the Court should conclusively prove or establish that income has escaped assessment. The reason to believe at the stage of re-opening is all that is relevant.

3. We find support for this view from the judgment of the Apex Court in ***Asst. CIT vs. Rajesh Jhaveri Stock Brokers P. Ltd.***[1], which has been referred to in a Division Bench judgment of the Bombay High Court in the case of ***Export Credit Guarantee Corporation of India Ltd. vs. Additional Commissioner of Income Tax***[2].

4. Therefore, keeping open all rights and contentions of the assessee including the fact that there is no case for re-assessment, we direct the Assessing Officer to go ahead with the re-assessment proceedings. If the assessee wishes to make any further submissions, the assessee may file the same within thirty days from the date this order is uploaded. Before passing a final order, a personal hearing shall be given to the assessee, notice whereof shall be communicated at least five working days in advance. Any order or judicial pronouncements of any Court or Tribunal that the Assessing Officer is going to rely on, list thereof be made available to assessee along with the notice of personal hearing. The order to be passed shall be a reasoned order dealing with all issues.

1*(2007) 291 ITR 500 (SC)*

2(2013) 30 taxmann.com 211 (Bombay)

With the aforesaid directions/observations, the appeal is dismissed. There shall be no order as to costs. Consequently, the interim application stands closed.

(K.R.SHRIRAM, CJ.) **(SUNDER MOHAN, J.)**
24.06.2025

Index : Yes/No
Neutral Citation : Yes/No

sra

To

The Deputy Commissioner of Income Tax,
Company Circle II (3),
121, Nungambakkam High Road,
Chennai 600 034.

The Hon'ble Chief Justice
and
Sunder Mohan, J.

(sra)

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