

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, "डी" अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" D " BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER

1. ITA No.2403/Ahd/2025 - Assessment Year : 2018-19
2. ITA No.2404/Ahd/2025 - Assessment Year : 2019-20

Shakti Polyweave Private Limited Harmony, 3 rd Floor 15A, Shree Vidhyanager Co-op. Housing Soc. Ltd. Navjivan SO Ahmedabad - 380 014	Vs	The Dy. CIT Circle-4(1)(1) Ahmedabad - 380 015
PAN: AACCS 1107 M		

अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Ms. Astha Maniar, AR
Revenue by :		Shri Rameshwar P. Meena, Sr.DR

सुनवाई की तारीख/Date of Hearing : 24/03/2026
घोषणा की तारीख /Date of Pronouncement: 22/05/2026

आदेश/ORDER

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

Both the captioned appeals have been preferred by the assessee against the separate orders of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] of even date 20/11/2025 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment Years (AYs) 2018-19 & 2019-20. Since the appeals relate to the same assessee, hence the same were heard together and are being disposed of by this common order for the sake of convenience.

2. First we take up the assessee's appeal in **ITA No.2403/Ahd/2025 for the AY 2018-19.**

3. The facts relating to the case are that the assessee had filed its return of income for the impugned assessment year declaring total income of Rs.35,06,53,550/-. Notice u/s.148 of the Act was issued for reopening the case of the assessee and subsequently assessment was framed making addition of Rs.74,64,822/- on account of low GP @ 0.25 of the gross turnover , Rs.11,83,044/- on account of contract charges paid without effecting TDS and Rs.18,73,024/- on account of belated PF deposits. Resultant, the income of the assessee was assessed at Rs.36,11,74,440/-.

4. Aggrieved by the order of the Assessing Officer (AO), the assessee carried the matter before the Ld. CIT(A), who dismissed the assessee's appeal *in limine* on account of non-participation of the assessee in appellate proceedings. The Ld. CIT(A) held that he found no reason to interfere with the findings of the AO.

5. Aggrieved by the order of the Ld. CIT(A), the assessee has now come in appeal before us raising the following grounds:

"The Ld. CIT(A) erred in law and on facts in dismissing the appeal of the Appellant without giving proper opportunity of being heard much less appreciating the facts available on record

2. *The Ld. CIT(A) erred in law and on facts in not appreciating that notice u/s 148A(b), order u/s 148A (d) and notice u/s 148 have been issued by the AO without objective application of mind and thus, assumption of jurisdiction is bad in law and thus, the entire proceedings are liable to be quashed.*

3. *The Ld. CIT(A) erred in law and on facts in not appreciating that the notice u/s 148 was issued by the JAO in violation of the CBDT Notification No 18 dated 29.03.2022 r.w.s 151A of the Act mandating the reassessment proceedings to be conducted in faceless manner.*

4. *The Ld. CIT (A) erred in law and on facts in confirming the addition of Rs. Rs.74,64,822/- made by the AO by estimating GP @ 0.25% of Gross turnover without rejecting the books of the Appellant nor pointing out any defects therein.*

5 *The Ld. CIT (A) erred in law and on facts in confirming the addition of Rs.11,83,044/- made by the AO u/s 40a(ia) of the Act.*

6. *The Ld. CIT(A) erred in law and on facts in confirming the disallowance of Rs. 18,73,024/- made u/s 36(1) of the Act being the contribution to PE."*

6. With respect to Ground No.1 before us regarding the dismissal of the appeal by the Ld. CIT(A) without giving proper opportunity of hearing to the assessee, the Ld. Counsel for the assessee did not press the same and agreed to argue the case on merits before us, having presented all facts to the AO and no additional evidence being sought to be relied upon before us. Ld. Counsel for the assessee also stated that Ground Nos.2 & 3 were also not being pressed before us. In the light of the same, Ground Nos.1 to 3 are dismissed as not pressed.

7. Ground No.4 relates to the addition to the income of the assessee of Rs.74,64,822/- by estimating Gross Profit (GP) @ 0.25% of the gross turnover. With respect to the said issue, our attention was drawn to the facts of the case leading to the impugned addition by pointing out that the AO noted that the assessee had underreported the closing stock of wastage or had sold wastage out the books of accounts to the tune of 1100715 Kgs. The said figure was derived from the detail contained in point No.35.bc of the Tax Audit Report, which is reproduced at page No.7 of the assessment order as under:

35.bc

Sl.No.	Item name	Unit	Opening stock	Purchases during the pre.year	Quantity Manufactured during the pre.year	Sales during pre.year	Closing the stock	Wastage
4.	Wastage	Kg.	30310	1254963	143960	0	405598	0

8. The AO noted that as per the details of wastage furnished in Point No.35.bc, (the total of opening stock and purchases less the quantity sold /manufactured during the year,) the closing stock of wastage came to 1141313 Kgs. The assessee, however, reflected only at 40598 Kgs. and, therefore, of 1100715 Kgs. was noted to be the understated closing stock which was valued at Rs.61.28 lakhs. Finding the assessee to have reflected the closing stock only at 2.18 lakhs, the AO noted the assessee has understated the closing stock of Rs.61.28 lakhs. The assessee, however, contended that there was no linear correlation between the details furnished in point no.35.bc of the tax audit report. That, the scrap generated was reused in the manufacturing process of the assessee. That to the extent the stock of scrap was found short, the same was actually consumed in the manufacturing process of the assessee, being sent to three job-workers for the said purpose. The names of the parties/job-workers to whom it was sent along with their confirmations were filed as also several other documentary evidences. The certificate from the Chartered Accountant (CA) was also filed regarding wastage supplied to the three parties for reprocessing. The contention of the assessee was, however, rejected by the AO stating that the figures of wastage mentioned in the certificate of the CA differed from those in the letters of the concerned three parties and also for the reason that it was not clear whether the CA possessed expertise on manufacturing process, valuation of stock / wastage or the two kinds of wastage generated in manufacturing. Noting the same, the AO held that the book results of the assessee are not acceptable

and invoking the provisions of section 145(3) of the Act, he rejected the books of accounts of the assessee. Further, taking note of GP declared by the assessee for the preceding two assessment years, he noted the assessee to have declared less GP in the impugned year as compared to the immediately preceding assessment year. He, accordingly, therefore made the addition to the income of the assessee on account of low GP by making the addition @ 0.25% of the gross turnover. Thus, making addition of Rs.74,64,822/- to the income of the assessee.

9. Before us, the Ld. Counsel for the assessee contended that the assessee had furnished due explanation of the anomaly noted in Point No.35.bc of the tax audit report and had duly substantiated its explanation with documentary evidences. She contended that the AO's reasons for rejecting the assessee's explanation was entirely baseless .That the AO had not considered the voluminous documentary evidences filed by the assessee to substantiate its explanation .That the AO had not found any infirmity in the said documentary evidences and that the assessee having duly explained the anomaly in the tax audit report at point No.35.bc, there was no reason to reject the books of accounts of the assessee and make the addition on an estimated basis to the income of the assessee. She also contended that the GP rate addition made by the AO was also grossly unjustified considering the past results of the assessee noted by the AO himself.

10. With respect to her contention that the assessee had offered an explanation regarding the alleged discrepancy noted in the reporting of wastage in the tax audit report, she drew our attention to letter dated

28/03/2022 filed by the assessee in response to notice u/s.148A(b) of the Act, placed before us, at page Nos.4 to 6 of the paper-book are as under:-

"Shakti Polyweave Private Limited
801, Narnarayan Complex, Opp. Navrangpura Post Office, Navrangpura, Ahmedabad
380 009 (INDIA)
Telefax # +91 7926442149, 26560115 Email # admin@shaktipolyweave.co.in
CIN U17110GJ1997PTC033436

PAN: AACCS 1107 M

To
Circle 4 (1)(1)
Ahmedabad

Dear Sir,

Subject: Escaped Assessment for A.Y. 2018-19 under clause (b) of Section 148A of the IT Act, 1961

Ref:-Your office notice no ITBA/AST/F/148A (SCN)/2021-22/1041122099(1) dated 21.03.2022 u/s 148 A of IT Act, 1961

We are in receipt of notice from your honor issued u/s. 148A of the Act for AY 2018-19. We would like to submit at the outset that there is no wastage claimed by the assessee. The attention of your honor is drawn to Tax Audit Report last column where Shortage/excess, if any is "0" that following reply to the issue raised by you. It is because the plastic waste that is generated during the manufacturing process are reprocessed to granules & reintroduced in the manufacturing process & it is wrong to presume that difference between Op stock, Purchases & closing stock is waste. The format provided by the revenue does not allow to mention reprocessing of waste. Thus, it seems that the misunderstanding is due to the insufficient format of the Tax Audit Report. Calculation of Closing Stock of Waste (By Product) is as under: -

Particulars	Quantity (in Kg)
Opening Stock	30,310
(+)Purchases/Manufactured during the previous year	12,54,963
(-) Sales during the previous year	(1,43,960)
(-) Reprocessed Waste used for own production	(11,00,715)
Closing stock	40,598

2. We would like to provide you the background of the Industry in brief. The Company is dealing in technical textile products as such HDPE/LDPE Laminated/Unlaminated Fabrics. The waste generated during manufacturing process is recycled and reprocessed in form of Granules or Finished goods. From the above chart, it is visible that 11,00,715 Kg waste has been manufactured from the waste and the same has been internally consumed by the company in its own manufacturing process.

3. The said quantity is included in 3CD report SL no 35 bA (2) under Raw Materials "Consumption during the previous year" 19408775 Kg. Further, in the 3CD report wherein quantity details are to be provided under Sr no 35bc- By Products in which there is option only of Opening stock, Purchase, Manufactured during the previous year, Sales and Closing stock. The quantity which is reprocessed and used by our own division could not be shown in By Product section as there is no column of Waste reprocessed quantity in 3CD report SL. no 35 (bC) (4)

4 We again place on record that the alleged waste presumed by your honor is due to insufficient columns in the Tax Audit Report It does not provide any column for recycling of waste.

5 In case your honor is requires any further information or explanation in this regard, we shall be glad to supply the same upon hearing from you.

6. In the meantime, we are in the process of compiling details for such consumption of recycled waste which may require some more time. Hence, we request your honor to grant us time of 10 days & oblige.

Thanking you,
For Shakti Polyweave Private Limited

Sd/-
(Authorised Signatory)"

10.1. Referring to the same, she pointed out that it was explained that the assessee was dealing in technical textile products, such as, HDPE/LDPE laminated/unlaminated fabrics. The waste generated during manufacturing process was recycled and reprocessed in form of Granules or finished goods. That, during the impugned year, the alleged understated wastage as per the figures reported in point No.35.bc of the tax audit report, were in fact, the reprocessed waste used for production. That this quantity was included in

point no.35.ba(2) under raw-material “Consumption during the previous year”. That, in point No.35.bc pertaining to scrap, there was no option of disclosing reprocessed scrap and, therefore, the same was not reflected therein.

10.2 Thereafter, she pointed out that vide response dated 28/03/2022, the assessee submitted evidences of reprocessing of wastage to the tune of 11,00,715 Kgs. by submitting a chart containing complete details of the job-workers and invoices substantiating the quantity of plastic wastage reprocessed by them. Sample copies of invoices, in support of the same was also submitted and it was pointed out that the aggregate of the invoices came to 11,04,710 Kgs. which tallied with the quantity noted to be understated in the tax audit report. Our attention was drawn to the said reply filed by the assessee at page No.7 of the paper-book and to the detail of the wastage sent for reprocessing to various job-workers placed at page No.118 of the paper-book. The said detail which was pointed out was also recorded in the order passed by the AO u/s.148A(d) of the Act. Attention was also drawn to the certificate furnished by the three job-workers certifying to have undertaken job-work for reprocessing plastic wastage for the assessee placed before us at page Nos.119, 229 and 238 of the paper-book , along with the copies of invoices of the said parties for the job-work done. Our attention was also drawn to the Certificate of the CA certifying the explanation of the assessee placed before us at page Nos.114 to 116 of the paper-book filed by the assessee, the contents of which are as under:

"LOONIA & ASSOCIATES
CHARTERED ACCOUNTANT

Hitesh Loonia
(B.Com. FCA, CMA, CS)

TO WHOMSOEVER IT MAY CONCERN

1. Hitesh Looni, proprietor partner of M/s Loonia & Associates having ICAI Membership No. 135424 and I am a practicing Chartered Accountant by profession having office at Ahmedabad and do hereby certify as under

(1) audited the books of account of M/s Shakti Polyweave Pvt Ltd (PAN AACCS1107M) for F.Y. 2017-18 and had prepared annual accounts and tax audit report u/s 44AB of the IT Act 1961 in the prescribed Form No. 3CD of the said concern

(2) With reference to three reassessment proceedings of the said company and notice issued on 17.01.2024, I hereby certify as under in relation to the reconciliation of closing stock of waste, including the production, recycling and utilization of waste stock

a) **Verification of Documents:** I have meticulously reviewed and verified all pertinent documents, encompassing reprocessing job work charges, delivery challans, transportation invoices, and additional records relevant to Shakti Polyweave Pvt. Ltd. These documents substantiate the authenticity of the job work undertaken for recycling waste into fresh raw materials

b) **Stock Figures:** The closing stock of waste at the end of the year, reported as 40,598 kgs, is accurately reflected in the financial statements. Furthermore, the quantity of 110,075 kgs, as referred to by your Honour, is properly accounted for in the company's books of accounts in compliance with generally accepted accounting standards. This particular quantity represents reprocessed granules and has been reintroduced in the production process & effectively utilized as raw material in the manufacturing process

c) I certify that the manufacturing process generates 2 types of wastage i.e. (1) waste which cannot be reprocessed (normal loss/consumables etc.) and (2) waste which can be further reprocess back as granules. The second type of wastage is being reprocessed through job worker and converted into reprocess granules. The said reprocessed granules is again used in the manufacturing of finished products. The conversion of waste into reprocess granules also generates some waste and invisible loss

d) In Sr No 35bc, we have shown 1254963 kg as purchase which is actually waste generated at the time of converting raw materials into semi/finished goods from our own manufacturing process and out of job worker process. The quantity manufactured from waste as reprocessed granules is 1100715 kg which arrives as under:-

Sr No	Particulars	Qty in Kg
1	Opening Stock of Waste	30310

Add		
2	Waste Generated during manufacturing process (shown as Purchase in 3CD)	1254963
Less		
3	Sales of waste	(143960)
4	Closing Stock of waste	(40598)
	Qty of reprocessed waste / Manufactured as granules	1100715

e) The details of quantity reprocessed by jobworker is detailed below:-

Sr No	Particulars	Qty in Kg
1	Dhanalaxmi Plastic	4435
2	Shri Jagdamba Polymers Limited	169329
3	Shri Techtex Limited	926951
	Total	1100715

f) The table shown in Tax Audit report under Sr No 35ba pertains to fresh & reprocessed material introduced in manufacturing PP/HDPE granules and not pertaining to waste sent for reprocessing. The yield shown of 99.04% which comes to 1,86,324 kg (loss of manufacturing process of own and job worker) pertains to fresh & reprocessed raw material only.

g) **Accounting of Wastage Granules:** Sales of wastage granules are properly recorded. Rest of the waste is either reprocessed into granules or remained outstanding as Closing Stock

h) **No Arithmetical Error:** affirm that there is no arithmetical error in the quantities reported at Column No. 35bC. The noted discrepancy arises due to the absence of a specific column for entries related to goods dispatched for job work / recycling etc or reprocessed waste used as raw material in the manufacturing process in the tax audit report format.

Conclusion: The audit findings accurately reflect the company's recycling and reprocessing activities. No adverse inference should be drawn regarding the reported quantities and processes.

In conclusion, as the Tax Auditor, I confirm the accuracy of the reported figures and the integrity of the company's recycling and reprocessing practices.

3 Further in so far as repayment made to M/s Sun Insulators Pvt Ltd is concerned, I certify that the same has been made through proper banking channel and not through "any other mode" as inadvertently reported in the Tax Audit report.

For, M/s Loonia & Associates
 Chartered Accountants

(Seal)

Sd/-
Hitesh Loonia
M. No. 135424
Firm Reg No. 130883W

Date: 18/02/2024
Place: Ahmedabad
UDIN-24135424BKCVQV3653"

11. The Ld. DR was unable to controvert the contention of the Ld. Counsel for the assessee as above that due explanation of the alleged understated stock was furnished by the assessee substantiated with documentary evidences. He was also unable to point out on facts the infirmity noted by the AO in the explanation of the assessee as above or in the documentary evidences submitted by the assessee. The only infirmity noted by the AO with respect to the same in the assessment order is that the amounts of scrap reprocessed by the job-workers as certified by them did not tally with the amounts certified by the CA in his Certificate. There is no specific instance of such discrepancy noted in the assessment order, however, we have gone through the contents of the CA's certificate and the certificate furnished by the job-workers, and we find no anomaly in figure of wastage processed by them. It is abundantly clear, therefore, that the assessee had clearly demonstrated that there was no case of understated stock of wastage .

12. In the light of the same, we agree with the Ld. Counsel for the assessee that there was no reason at all for rejecting the books of accounts of the assessee and estimating the GP earned by the assessee. The rejection of books of accounts by the AO is, therefore, set aside so also as a consequence the estimation of income of the assessee to the tune of Rs.74,64,822/-.

13. Dehors our above finding, even considering that after rejection of books of accounts, the AO was required to make a fair estimation of the profits earned by the assessee based on some cogent material, We find force in the contention of the Ld. Counsel for the assessee that the AO failed to do so in the facts of the present case .As noted by the AO himself and reproduced in our order above, the GP shown by the assessee in the impugned year showed a marginal decline of 0.12% being 18.27% in the preceding year and 18.15% in the impugned year. Further, considering the average of GP returned by the assessee in the preceding two years which comes to approximately 17.56% $(16.86 + 18.27 / 2)$, the GP of 18.15% shown by the assessee in the impugned year was much higher, calling for no addition to be made on account of fall in GP as compared to the preceding years. On this account also, we agree with the Ld. Counsel for the assessee that the AO's estimation of income of the assessee by applying a rate of 0.25% of the gross turnover on account of fall in GP is grossly unjustified.

14. Therefore, on both the above counts, i.e. on finding the rejection of books of accounts as not justified and, on account of estimation of GP also not justified, we hold that the addition made to the income of the assessee of Rs.74.64 lakhs is not sustainable and the same is, accordingly, ordered to be deleted.

15. Ground No.4 of the assessee's appeal is allowed.

16. Ground Nos. 5 & 6 of assessee's appeal relate to the addition made to the income of the assessee on account of alleged non-deduction of tax at source on contract payments resulting in a disallowance of 30% of the said

expenses amounting to Rs.11,83,044/- u/s.40a(ia) of the Act and on account of delayed payment of employees' contribution to PF amounting to Rs.18,73,024/- u/s.36(1)(va) of the Act.

17. The contention of the Ld. Counsel for the assessee with respect to the above was that if the addition made on account of alleged understatement of stock of waste, for which reason the case of the assessee was reopened, does not survive, the AO has no jurisdiction to make addition on any other issue. Reliance was placed on the decision of Hon'ble Delhi High Court in the case of Ranbaxy Laboratories Ltd. vs. CIT reported in (2011) 336 ITR 131 (Delhi) and the decision of Hon'ble Bombay High Court in the case of Jet Airways (India) Ltd. reported in (2011) 331 ITR 236(Bom).

18. We find merit in the contention of the Ld. Counsel for the assessee. There is no dispute with proposition of law laid down by the Hon'ble Delhi High court in the case of Ranbaxy(supra) and the Hon'ble Bombay High Court in the case of Jet Airways(supra) that where the basis of reopening the case of the assessee is found not to exist the AO cannot make addition on any other issue, which did not form the basis for reopening the case .The fundamental principle recognized being that the AO's jurisdiction to frame assessment u/s 147 of the Act is ousted the moment his basis for reopening the case ceases to exist.

19. Having said case the peculiar facts of the present case are that though the AO made addition of the income noted by him to have escaped assessment in his reasons recorded, however the same stand deleted in appeal. The question before us is that, in such facts and circumstances will

the proposition laid down by the Hon'ble Delhi and Hon'ble Bombay High court still apply. The answer to the same is in the affirmative. The Hon'ble Delhi High court in the case of Valmik Thapar dealt with an identical issue, in which the addition made by AO on income believed by him to have escaped assessment stood deleted in appeal, and the Hon'ble court held that the proposition laid down in Ranbaxy(supra) and Jet airways (supra) would apply and no addition made on any other count, which did not form the AO's reason to believe escapement of income, was sustainable. The relevant findings of the Hon'ble High court are as under:

"26. The learned counsel appearing for the Assessee has confined the present appeal on the sole ground that the additions made were not sustainable as the additions made on the basis of the reasons recorded for reopening of the assessment had been deleted.

27. At the outset, it is relevant to refer to the reasons recorded for reopening of the assessment. The same are reproduced below:

"Return declaring an income of Rs.2,91,02,041/- for A.Y. 2010-11 in this case was filed on 26.7.2010. A perusal of computation of total income annexed with a the return shows that during the year, the assessee has received an amount of Rs.14,20,00,000/- from sale of 50% share in House No.19, Kautilya Marg, New Delhi. The assessee has declared Long Term Capital Gain of Rs.2,50,36,358/-. Out of Sale Proceeds, the assessee has made the following investments:-

*a) Investment in REC Capital Gain bonds on 24.02.2009 out of advance rcvd: Rs.50,00,000/-
a) Investment in NHAI Bonds on 9.12.2009 out of Advance Rs.50,00,000/-*

Section 54EC reads as under:-

(1) Where the capital gains arises from the transfer of a long- term capital Asset and (2) Proviso to Sec.54EC reads as under:-

[Provided that the investment made on or after the 1st day of April, 2007 in the long term specified asset by an assessee during any financial year does not exceed fifty Lakh rupees.] In this case, the assessee has claimed deduction u/s 50EC for Rs.1 Crore. The assessee has invested an amount exceeding Rs.50,00,000/- in long term capital assets out of sale proceeds, proviso to Section 54EC is clearly applicable in this case. Thus the deduction u/s 54EC on LTCG amounting to Rs.50,00,000/- has been claimed in excess which required to be taxed. As assessee has made a wrong claim for deduction u/s 54EC and income (LTCG) of Rs.50 lacs chargeable to income-tax has escaped assessment.

Apart from above, assessee has also claimed deduction u/s 54 amounting to Rs.3,77,65,215/- & Rs.1,70,00,000/- by making investment in two capital assets (new property) whereas deduction u/s 54 is allowable for only one property. In view of this, the assessee has claimed excess deduction u/s 54 which is liable to be withdrawn and taxed.

In view of this, I have reason to believe that income as mentioned above has escaped assessment and accordingly proceedings [u/s 147](#) of the Income-tax Act, 1961 are initiated. Notice [u/s 148](#) of the Income-tax Act, 1961 is being issued."

28. *It is clear from the above, that the AO had reinitiated the assessment proceedings for two reasons. First, that the deduction under [Section 54EC](#) of the Act was in excess of ₹50,00,000/- which according to the AO was not permissible. And second, that the Assessee had claimed deduction under [Section 54](#) of the Act on account of investments made in two properties:*

₹3,77,65,215/- for purchasing a flat at Mumbai [new asset] and ₹1,70,00,000/- for construction of the one half share of the subject property retained by the Assessee. According to the AO, the deduction under [Section 54](#) of the Act was required to be confined to only one of the said properties.

29. *Admittedly, none of the two reasons were sustained by the ITAT.*

30. *The learned ITAT had rejected the reasoning that the deduction under [Section 54](#) of the Act is available in respect of investment in one residential unit only. The learned ITAT, following the decision in the case of [Arun K. Thiagarajan v. Commissioner of Income-tax \(Appeals\) & Anr.](#): (2020) 427 ITR 190, held that [Section 54](#) of the Act contemplated investment in "a residential house", which did not mean one residential house. The learned ITAT held that expression 'a residential house' could not be construed as a singular house.*

31. *It is not necessary to examine the merits of the learned ITAT's decision as the Revenue has accepted the ITAT's decision and has not filed an appeal against the impugned order. Thus, we must proceed on the basis of the AO's reasoning that the deduction under [Section 54](#) of the Act was confined to investment made in one residential house has not been sustained.*

32. *Insofar as the second reason is concerned - that the deduction under [Section 54EC](#) of the Act is confined to ₹50,00,000/- only - the same was also not sustained by the learned ITAT. The learned ITAT had following the decision of the Madras High Court in [Commissioner of Income-tax, Chennai v. C. Jaichander](#): (2015) 370 ITR 579 concluded that the issue whether a deduction under [Section 54EC](#) of the Act could exceed the said amount, as claimed by the Assessee, was covered in the Assessee's favour. The Revenue's appeal against the CIT(A)'s order was, accordingly dismissed.*

33. *In view of the above, the principal question to be addressed is whether the additions made by the AO are sustainable if the reasons for which the reassessment proceedings had been initiated are not sustained. Undisputedly, the said question is squarely covered by the several decisions of this court.*

34. *In [Ranbaxy Laboratories Limited v. Commissioner of Income-tax](#): (2011) 336 ITR 136, this court had construed the expression "and also any other income chargeable to tax" as occurring in [Section 147](#) of the Act to mean that other income could also be brought to tax provided an addition was made for the reasons that had led to initiation of assessment proceedings. We consider it apposite to set out the following extract of [the said decision](#):*

"17. Now, coming back to the interpretation which was given by the Bombay High Court to [sections 147](#) and [148](#) in view of the precedent on the subject, the court held as under (pages 243 and 247 of 331 ITR):

"Interpreting the provision as it stands and without adding or deducting from the words used by Parliament, it is clear that upon the formation of a reason to believe under [section 147](#) and following the issuance of a notice under [section 148](#), the Assessing Officer has the power to assess or reassess the income which he has reason to believe had escaped assessment, and also any other income chargeable to tax. The words 'and also' cannot be ignored. The interpretation which the court places on the provision should not result in diluting the effect of these words or rendering any part of the language used by Parliament otiose. Parliament having used the words 'assess or reassess such income and also any other income chargeable to tax which has escaped assessment', the words 'and also' cannot be read as being in the alternative. On the contrary, the correct interpretation would be to regard those words as being conjunctive and cumulative. It is of some significance that Parliament has not used the word 'or'. The Legislature did not rest content by merely using the word 'and'. The words 'and' as well as 'also' have been used together and in conjunction... "

Evidently, therefore, what Parliament intends by use of the words 'and also' is that the Assessing Officer, upon the formation of a reason to believe under [section 147](#) and the issuance of a notice under [section 148\(2\)](#) must assess or reassess : (i). 'such income' ; and also (ii) any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under the section. The words 'such income' refer to the income chargeable to tax which has escaped assessment and in respect of which the Assessing Officer has formed a reason to believe that it has escaped assessment. Hence, the language which has been used by Parliament is indicative of the position that the assessment or reassessment must be in respect of the income in respect of which he has formed a reason to believe that it has escaped assessment and also in respect of any other income which comes to his notice subsequently during the course of the proceedings as having escaped assessment. If the income, the escapement of which was the basis of the formation of the reason to believe is not assessed or reassessed, it would not be open to the Assessing Officer to independently assess only that income which comes to his notice subsequently in the course of the proceedings under the section as having escaped assessment. If upon the issuance of a notice under [section 148\(2\)](#), the Assessing Officer accepts the objections of the assessee and does not assess or reassess the income which was the basis of the notice, it would not be open to him to assess income under some other issue independently. Parliament when it enacted the provisions of [section 147](#) with effect from April 1, 1989 clearly stipulated that the Assessing Officer has to assess or reassess the income which he had reason to believe had escaped assessment and also any other income chargeable to tax which came to his notice during the proceedings. In the absence of the assessment or reassessment the former, he cannot independently assess the latter. ... "

[Section 147](#) has this effect that the Assessing Officer has to assess or reassess the income ('such income') which escaped assessment and which was the basis of the formation of belief and if he does so, he can also assess or reassess any other income which has escaped assessment and which comes to his notice during the course of the proceedings. However, if after issuing a notice under [section 148](#), he accepted the contention of the assessee and holds that the income which he has initially formed a reason to believe had escaped assessment, has as a matter of fact not escaped assessment, it is not open to him independently to assess some other income. If he intends to do so, a fresh notice under [section 148](#) would be necessary, the legality of which would be tested in the event of a challenge by the assessee."

18. We are in complete agreement with the reasoning of the Division Bench of the Bombay High Court in the case of [CIT v. Jet Airways \(I\) Limited](#) (2011) 331 ITR 236 (Bom). We may also note that the heading of [section 147](#) is "income escaping assessment" and that of [section 148](#) "issue of notice where income escaped assessment". [Sections 148](#) is supplementary and complimentary to [section 147](#). Sub-section (2) of [section 148](#) mandates reasons for issuance of notice by the Assessing Officer and sub-section (1) thereof mandates service of notice to the assessee before the Assessing Officer proceeds to assess, reassess or recompute the escaped income. [Section 147](#) mandates recording of reasons to believe by the Assessing Officer that the income chargeable to tax has escaped assessment. All these conditions are required to be fulfilled to assess or reassess the escaped income chargeable to tax. As per Explanation 3 if during the course of these proceedings the Assessing Officer comes to conclusion that some items have escaped assessment, then notwithstanding that those items were not included in the reasons to believe as recorded for initiation of the proceedings and the notice, he would be competent to make assessment of those items. However, the Legislature could not be presumed to have intended to give blanket powers to the Assessing Officer that on assuming jurisdiction under [section 147](#) regarding assessment or reassessment of the escaped income, he would keep on making roving inquiry and thereby including different items of income not connected or related with the reasons to believe, on the basis of which he assumed jurisdiction. For every new issue coming before the Assessing Officer during the course of proceedings of assessment or reassessment of escaped income, and which he intends to take into account, he would be required to issue a fresh notice under [section 148](#)."

35. In [ATS Infrastructure Ltd. v. Assistant Commissioner of Income Tax, Circle 1 \(1\) Delhi & Ors.](#): Neutral Citation No. 2024:DHC:5474-DB, this court had examined catena of decisions and reiterated the view as expressed in [Ranbaxy Laboratories Limited v. Commissioner of Income-tax](#): (2011) 336 ITR 136 (supra). The relevant extract of the said decision is set out below:

"23. It becomes evident that the Court in [Ranbaxy Laboratories Ltd.](#), firstly took into consideration [Section 147](#) of the Act, embodying the phrase "and also" prefixed to the expression "any other income chargeable to tax which has escaped assessment". It thus came to the conclusion that, while an assessment may be reopened based on certain grounds which may have led the AO to be of the opinion that income chargeable to tax had escaped assessment, once it is found that the reassessment power had been validly invoked, the power of the AO would not stand confined only to those aspects which may have been noticed in the original notice issued under [Section 148](#) of the Act but would also extend to any other income which may be found to be exigible to tax.

24. This clearly appeals to reason, since [Section 147](#) of the Act embodies a power to assess, reassess as well also to recompute. Consequently, and once that power is validly invoked, the original assessment would cease to exist in the eyes of law. Undoubtedly, once an assessment already made comes to be reopened, the AO stands empowered statutorily to undertake an assessment afresh in respect of the entire income which may have escaped assessment. However, the only additional caveat which [Ranbaxy Laboratories Ltd.](#) enters is with respect to a situation where, in the course of reassessment, the AO ultimately comes to the conclusion that no additions or variations were warranted in respect of the heads or items of income which had formed the basis for initiation of action under [Section 148](#) of the Act. It is in the aforesaid backdrop that the Court in [Ranbaxy Laboratories Ltd.](#) proceeded on facts to

hold that since no additions had ultimately been made in respect of items such as club fees, gifts and presents, and which constituted the basis for initiation of reassessment, it would not be open to the AO to revise or modulate findings on any other head or items that may have been dealt with in the original assessment.

25. The position in law which emerges from the aforesaid discussion is that while it is true that the AO would have to establish that reassessment is warranted on account of information in its possession which appears to indicate that income chargeable to tax had escaped assessment, once the assessment itself is reopened it would not be confined to those subjects only. This would, however, be subject only to one additional rider and that being if, in the course of reassessment, the AO ultimately comes to conclude that no additions or modifications are warranted under those heads, it would not be entitled to make any additions in respect of other items forming part of the original return.

26. This position in law also finds resonance in the judgment of the Punjab and Haryana High Court in *Majinder Singh Kang Versus Commissioner of Income-tax and Another*:2010 SCC OnLine P&H 13401 and where it was observed:-

"8. Learned counsel for the assessee submitted that the Assessing Officer had reopened the assessment by issuing notice under [section 148](#) of the Act on the ground that the income from salary, perquisites and unexplained cash deposits in various accounts along with interest thereon had escaped assessment. The counsel urged that the Assessing Officer, however, while passing the reassessment order had sought to make addition of another amount without any addition having been made on the ground on the basis of which reassessment had been initiated. According to the learned counsel, no reassessment order could be passed by the Assessing Officer. Learned counsel for the assessee relied upon the following observations made by this court in [CIT v. Atlas Cycle Industries](#) [1989] 180 ITR 319 (page 322):

"...we are of the view that the Tribunal was right in cancelling the reassessment as both the grounds on which reassessment notice was issued were not found to exist, and the moment such is the position, the Income-tax Officer does not get the jurisdiction to make a reassessment."

9. Support was also drawn from the decision of the Rajasthan High Court in [CIT v. Shri Ram Singh](#) (2008) 306 ITR 343 (Raj) wherein judgment of this court in [Atlas Cycle Industries](#)¹ case (1989) 180 ITR 319 (P&H) was followed."

Xxxx xxxx xxxx

12. A plain reading of Explanation 3 to [section 147](#) clearly depicts that the Assessing Officer has power to make additions even on the ground on which reassessment notice might not have been issued in case during the reassessment proceedings, he arrives at a conclusion that some other income has escaped assessment which comes to his notice during the course of proceedings for reassessment under [section 148](#) of the Act. The provision nowhere postulates or contemplates that it is only when there is some addition on the ground on which reassessment had been initiated, that the Assessing Officer can make additions on any other ground on the basis of which income may have escaped assessment. The reassessment proceedings, thus, in the present case cannot be held to be vitiated.

36. This court has, in a recent decision in [Pr. Commissioner of Income Tax-7 v. Sunlight Tour and Travels Pvt. Ltd.:2024](#) SCC OnLine Del 8234, reiterated the aforesaid view.

37. Whilst Mr. Panda, the learned counsel appearing for the Revenue, contended that the said decisions require reconsideration, he did readily conceded that the issue involved is squarely covered by the aforementioned decisions of this court. It is material to note that the aforesaid view also resonates in [The Principal Commissioner of Income Tax-1 v. Naveen Infradevelopers & Engineers Pvt. Limited](#): Neutral Citation No.:

2024:DHC:7997-DB and PCIT v. Jaguar Buildcon Pvt. Ltd. in ITA 756/2023 decided on 01.08.2024. The Bombay High Court has also expressed the similar view in [Commissioner of Income Tax v. Jet Airways \(I.\) Ltd.:](#) (2011) 331 ITR 236. We are unable to accept that the aforesaid view which has been consistently followed in the aforesaid decisions requires reconsideration.

38. In view of the above, the question of law as framed is answered in favour of the Assessee and against the Revenue."

In the facts of the case before us, since the addition on account of alleged income found to have escaped assessment has been deleted, the addition made on the other counts, i.e. u/s.40a(ia) of the Act and 36(1)(va) of the Act do not survive and are, accordingly, deleted.

20. In the result, the appeal of the assessee in ITA No.2403/Ahd/2025 for AY 2018-19 is partly allowed.

21. Now we take up the assessee's appeal in **ITA No.2404/Ahd/2025 for AY 2019-20**, wherein the assessee has taken following grounds of appeal:

"1. The Ld. CIT(A) erred in law and on facts in dismissing the appeal of the Appellant without giving proper opportunity of being heard much less appreciating the facts available on record.

2. The Ld. CIT(A) erred in law and on facts in not appreciating that notice u/s 148A (b), order u/s 148A (d) and notice u/s 148 are barred by limitation or bad in law and thus, the entire proceedings are liable to be quashed.

3. The Ld. CIT(A) erred in law and on facts in not appreciating that the notice u/s 148 was issued by the JAO in violation of the CBDT Notification No 18/2022 dated

29.03.2022 r.w.s 151A of the Act mandating the reassessment proceedings to be conducted in faceless manner.

4 The Ld. CIT(A) erred in law and on facts in not appreciating that the AO failed to provide the entire statements of the third persons relied upon by him much less an opportunity to cross examine them and the alleged incriminating material /information/ details of enquiries conducted etc. despite specifically demanded by the Appellant and thus, the reassessment proceedings are bad in law.

5 Without prejudice to the above, the Ld. CIT(A) further erred in law and on facts in confirming the disallowance of claim of Deduction made u/s 80G of Rs. 13,25,500/- without appreciating that the AO has made double disallowance.

6. The Appellant craves leave to add, amend, delete or alter one or more grounds of appeal."

22. The Ld. Counsel for the assessee, at the outset, contended that her only grievance is with respect to the disallowance of deduction made u/s.80G of the Act amounting to Rs.13,25,500/-. Remaining grounds, i.e Ground Nos.1 to 4 were not pressed and it was only Ground No.5 which was stated to be pressed before us.

23. Drawing our attention to the facts of the case, Ld. Counsel for the assessee stated that the disallowance u/s.80G of the Act included the following:

Sl.No(s)	Particulars	Amount (Rs.)
1.	Donation made to All India Social Education Charitable Trust	2,50,000/-
2.	Donation made to Ishwardas Jhabarmal Trust	50,000/-
3.	Donation made to Ahmedabad Jilla Traffic Education Trust	25,000/-
4.	Donation made to Swaminarayan Vivith Seva Niketan Trust	10,00,000/-

23.1. With respect to the donations disallowed in Sl. Nos. 2 & 4 above, the Ld. Counsel for the assessee contented that she was unable to file evidences before the AO regarding the same. That the claim was validly made and, if given, the assessee would substantiate its claim with documentary evidences.

23.2. With respect to the denial of deduction u/s.80G of Rs.2,50,000/-, she pointed out that the case of the Revenue was that the impugned donation was bogus that the finding was arrived on the basis of information with the AO provided by the Investigation Wing (I.W.) that unregistered/unrecognized political parties and certain charitable organizations including the organization to which the assessee had given donation were involved in racket of providing bogus donation. She contended that this information was based on search and seizure action u/s.132 of the Act conducted in the case of the political parties and charitable organizations on 02/02/2021. The Ld. Counsel for the assessee pointed out that in the case of the assessee, the donation had been treated as bogus merely on the basis of the information in the possession of the AO and without giving due opportunity of hearing to the assessee. That the assessee had submitted all documentary evidences proving the donations to be genuine, but the AO had not provided the assessee any adverse material in his possession reflecting the donations to be bogus nor any opportunity of cross-examination was provided to the assessee of the persons noted to have admitted to have taken bogus donations.

24. The Ld. DR was unable to controvert the contention of the Ld. Counsel for the assessee that she was not provided an opportunity of cross-examination.

25. In the light of above, the entire issue of disallowance of donations amounting to Rs.13,25,500/- is restored back to the file of AO to be adjudicated afresh after giving due opportunity of hearing to the assessee.

The appeal of the assessee in ITA No.2404/Ahd/2025 is treated as partly allowed for statistical purposes.

26. In the combined result, the appeal of the assessee in ITA No.2403/Ahd/2025 for AY 2018-19 is partly allowed, whereas assessee's appeal in ITA No.2404/Ahd/2025 for AY 2019-20 is partly allowed for statistical purposes.

Order pronounced in the open Court on 22/05/2026

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, Dated 22/05/2026

True Copy

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad