

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'H': NEW DELHI**

**BEFORE SHRI SUDHIR PAREEK, JUDICIAL MEMBER  
AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**I.T.A. Nos. 4805 & 4806/Del/2026**  
(Assessment Years: 2020-21 & 2021-22)

|                                                                   |    |                                                                                                                                                            |
|-------------------------------------------------------------------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Deputy Commissioner of<br>Income Tax, Central Circle-20,<br>Delhi | v. | Maharashtra Seamless Ltd.<br>Room No. 269A, 2 <sup>nd</sup> Floor,<br>E-2 ARA Centre,<br>Jhandelwala, Extn., Delhi-<br>110055<br><b>[PAN: AAACM 0511B]</b> |
| <b>(Appellant)</b>                                                |    | <b>(Respondent)</b>                                                                                                                                        |

**C. O. Nos. 274 & 275/Del/2026**  
(Arising out of I.T.A. Nos. 4805 & 4806/Del/2026)  
(Assessment Years: 2020-21 & 2021-22)

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| Maharashtra Seamless Ltd.<br>Room No. 269A, 2 <sup>nd</sup> Floor,<br>E-2 ARA Centre,<br>Jhandelwala, Extn., Delhi-<br>110055<br><b>[PAN: AAACM 0511B]</b> | v. | Deputy Commissioner of Income<br>Tax, Central Circle-20, Delhi |
| <b>(Appellant)</b>                                                                                                                                         |    | <b>(Respondent)</b>                                            |

|                       |                                            |
|-----------------------|--------------------------------------------|
| Appellant by          | Sh. Ved Jain, Adv. & Sh. Ayush<br>Garg, CA |
| Department by         | Sh. Bhopal Singh, CIT-DR                   |
| Date of Hearing       | 05.08.2026                                 |
| Date of Pronouncement | 20.08.2026                                 |

**ORDER****PER SUDHIR PAREEK, JM:**

Captioned appeals have been preferred by the Revenue and assessee against the order of the learned Commissioner of Income Tax (Appeals)-27 New Delhi [“Id. CIT(A)”, for short] even dated 23.01.2026 passed u/s 250 of the Income Tax Act, 1961 (for short ‘the Act’). All these appeals are disposed of with this common order, as the facts and issues are identical in all.

2. The revenue has raised the following grounds of appeal in ITA Nos. 4805 & 4806/Del/2026:

- “1. *Whether the Ld. CIT(A) has erred in the facts and in law by quashing the notice issued u/s 148 dated 31.03.2023 and the consequential assessment order u/s 147 r.w.s. 143(3) dated 31.03.2024, by wrongly misapplying Para 31.3 of CBDT Circular No. 23/2022 dated 03.11.2022 and ignoring the express statutory provisions of the Act?*
2. *Whether on the facts and circumstances of the case, Ld. CIT(A) has erred in holding that the Assessing Officer wrongly assumed jurisdiction, without appreciating that under Explanation 2(iv) to Section 148 of the Act, the Assessing Officer is deemed to have information suggesting escapement of income, once satisfied that documents seized during the search (M/s Proform Interiors Pvt. Ltd. on 09.02.2022) pertain or relate to the assessee?*
3. *Whether on the facts and circumstances of the case, the Ld. CIT(A) ignored the statutory position and considered the facts only partially by failing to appreciate that the notice u/s 148 was validly issued strictly in accordance with Section 149(1)(a) of the Act, as it was issued within three years from the end of the relevant assessment year, for which no minimum threshold of escaped income is required?*

4. *(a) The Order of the Hon'ble CIT(A), Delhi is erroneous and not tenable in law and on facts.*

*(b) The appellant craves to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal. ”*

3. The assessee has raised the following grounds in C.O. No. 274/Del/2026:

*“1. On the facts and circumstances of the case, the notice issued under section 148 and assessment order passed under section 147 r.w.s 143(3) by the AO are illegal, invalid, without jurisdiction, barred by limitation and hence liable to be quashed.*

*2. On the facts and circumstances of the case, the notice issued under section 148 of the Income Tax Act, 1961 ("Act") and consequent assessment order under section 147 r.w.s 143(3) without complying with the statutory conditions and the procedure prescribed under the law are bad and liable to be quashed.*

*3. On the facts and circumstances of the case, the reopening of the reassessment proceedings and notice issued under section 148 of the Act is invalid, without jurisdiction, illegal and unsustainable as the same has been issued by invoking the provisions of section 149(1A) of the Act for aggregating the alleged escaped income, which is not applicable to the present facts of the case of the assessee.*

*4. On the facts and circumstances of the case, the reassessment order passed by the Joint Commissioner of Income Tax is illegal, without jurisdiction and hence unsustainable in law, as the Joint Commissioner of Income Tax (OSD) is not an assessing officer within the meaning of the section 2(7A) of the Act, 1961.*

*5. On the facts and circumstances of the case, the reassessment order passed stands vitiated and liable to be quashed as the same has been passed under the directions of the Additional Commissioner of Income Tax, Central Range-05, New Delhi.*

*6. On the facts and circumstances of the case, the reassessment order passed stands vitiated and liable to be quashed as the JCIT has failed to exercise his independent quasi-judicial discretion and has abdicated his authority, thereby rendering the assessment proceedings illegal and without lawful justification.*

7. *On the facts and circumstances of the case, the reassessment order passed under section 147 r.w.s 143(3) of the Act is illegal, invalid, without jurisdiction and unsustainable as the AO has assumed jurisdiction over the assessee without there being any valid order passed under section 127 of the Act.*

8. (1) *On the facts and circumstances of the case, the assessment order passed by the AO under section 147 r.w.s 143(3) of the Act is invalid, illegal and unsustainable as the same has been passed without obtaining the valid prior statutory approval from prescribed authority under section 148B of the Income Tax Act, 1961.*

(i) *That the purported approval is illegal, invalid mechanical and has been given without application of mind.*

9. *On the facts and circumstances of the case, the case has been reopened on the basis of search conducted on third party and therefore proceedings initiated under Section 148 of the Act and the reassessment order passed under the said section are illegal, bad and liable to be quashed as the same has been made without recording any valid satisfaction and without taking any valid prior statutory approval under Explanation 2 to section 148 of the Act and proviso to section 148A of the Act.*

10. (i) *On the facts and circumstances of the case, the reassessment order under section 147 r.w.s 143(3) is illegal and void ab initio as the same has been passed despite the fact that the notice under section 148 has been issued without obtaining valid statutory prior approval from the specified authority as provided under section 151 of the Act.*

(ii) *That the purported approval is illegal, invalid mechanical and has been given without application of mind*

11. *On the facts and circumstances of the case, the reassessment order passed by the AO under section 147 r.w.s 143(3) of the Act is illegal, invalid, without jurisdiction and hence liable to be quashed as the same has been reopened on the basis of the information which are mere change of opinion as the issue was already examined during the course of assessment proceedings under Section 143(3) of the Act*

12. *On the facts and circumstances of the case, the reassessment order passed by the AO under section 147 r.w.s 143(3) of the Act despite the fact that the same is illegal and void-ab-initio, as no addition has been made by the Assessing Officer in respect of the income that formed the basis of the belief that income had escaped assessment.*

13. *On the facts and circumstances of the case, the additions made in the assessment order in the absence of any incriminating material found during the course of search is illegal, without jurisdiction. and unsustainable.*

14. *On the facts and circumstances of the case, the disallowance of Rs. 3,20,41,541/- made in the reassessment order on account of deduction of education cess claimed by the assessee is illegal, invalid, unsustainable and liable to be deleted.*

15. (i) *On the facts and circumstances of the case, the disallowance of Rs. 11,41,49,920/- made in the reassessment order under section 14A r.w.r 8D of the Act is illegal, invalid, unsustainable and liable to be deleted.*

(ii) *That the abovesaid disallowance has been made without recording the mandatory satisfaction, as required under section 14A(2) of the Act read with Rule 8D of the Income-tax Rules, 1962.*

16. (i) *On the facts and circumstances of the case, the disallowance of Rs. 31,17,58,000/- made in the assessment order on estimation basis as 2% of total purchases of Rs. 15,58,79,00,000/- claimed by the assessee treating the same as unverifiable is invalid, illegal and unsustainable.*

(ii) *That the abovesaid addition made in the assessment order on an estimated basis, which is illegal, arbitrary, unjustified, and unsustainable in law.*

17. *On the facts and circumstances of the case, the abovesaid addition has been made ignoring the settled position of law that when sales have not been doubted corresponding purchases cannot be treated as non-genuine.*

18. (i) *On the facts and circumstances of the case, the abovesaid addition has been made by rejecting the books of the assessee which is illegal, invalid and contrary to the facts on record.*

(ii) *That the abovesaid addition has been made in the assessment order despite the fact that assessee has been maintaining regular books of accounts, stock register and financial statement are audited as per law and nothing adverse has been pointed out by the AO.*

19. *On the facts and circumstances of the case, the abovesaid addition made in the assessment order is illegal and unsustainable as the same has been made without conducting any independent enquiry under section 133(6)/131 of the Act during the course of reassessment proceedings.*

20. *That the respondent craves leave to add, amend or alter any of the grounds of appeal."*

#### 4. **Grounds in C.O. No. 275/Del/2026:**

*“1. On the facts and circumstances of the case, the notice issued under section 148 and assessment order passed under section 147 r.w.s 143(3) by the AQ are illegal, invalid, without jurisdiction, barred by limitation and hence liable to be quashed.*

*2. On the facts and circumstances of the case, the notice issued under section 148 of the Income Tax Act, 1961 ("Act") and consequent assessment order under section 147 r.w.s 143(3) without complying with the statutory conditions and the procedure prescribed under the law are bad and liable to be quashed.*

*3. On the facts and circumstances of the case, the reopening of the reassessment proceedings and notice issued under section 148 of the Act is invalid, without jurisdiction, illegal and unsustainable as the same has been issued by invoking the provisions of section 149(1A) of the Act for aggregating the alleged escaped income, which is not applicable to the present facts of the case of the assessee.*

*4. On the facts and circumstances of the case, the reassessment order passed by the Joint Commissioner of Income Tax is illegal, without jurisdiction and hence unsustainable in law, as the Joint Commissioner of Income Tax (OSD) is not an assessing officer within the meaning of the section 2(7A) of the Act, 1961.*

*5. On the facts and circumstances of the case, the reassessment order passed stands vitiated and liable to be quashed as the same has been passed under the directions of the Additional Commissioner of Income Tax, Central Range-05, New Delhi.*

*6. On the facts and circumstances of the case, the reassessment order passed stands vitiated and liable to be quashed as the JCIT has failed to exercise his independent quasi-judicial discretion and has abdicated his authority, thereby rendering the assessment proceedings illegal and without lawful justification.*

*7. On the facts and circumstances of the case, the reassessment order passed under section 147 r.w.s 143(3) of the Act is illegal, invalid, without jurisdiction and unsustainable as the AO has assumed jurisdiction over the assessee without there being any valid order passed under section 127 of the Act.*

*8. (i) On the facts and circumstances of the case, the assessment order passed by the AO under section 147 rws 143(3) of the Act is invalid, illegal and unsustainable as the same has been passed without obtaining the valid prior statutory approval from prescribed authority under section 148B of the Income Tax Act, 1961.*

*(ii) That the purported approval is illegal, invalid mechanical and has been given without application of mind.*

9. *On the facts and circumstances of the case, the case has been reopened on the basis of search conducted on third party and therefore proceedings initiated under Section 148 of the Act and the reassessment order passed under the said section are illegal, bad and liable to be quashed as the same has been made without recording any valid satisfaction and without taking any valid prior statutory approval under Explanation 2 to section 148 of the Act and proviso to section 148A of the Act.*

10. (i) *On the facts and circumstances of the case, the reassessment order under section 147 r.w.s 143(3) is illegal and void ab initio as the same has been passed despite the fact that the notice under section 148 has been issued without obtaining valid statutory prior approval from the specified authority as provided under section 151 of the Act.*

(ii) *That the purported approval is illegal, invalid mechanical and has been given without application of mind.*

11. *On the facts and circumstances of the case, the reassessment order passed by the AO under section 147 r.w.s 143(3) of the Act despite the fact that the same is illegal and void-ab-initio, as no addition has been made by the Assessing Officer in respect of the income that formed the basis of the belief that income had escaped assessment*

12. *On the facts and circumstances of the case, the additions made in the assessment order in the absence of any incriminating material found during the course of search is illegal, without jurisdiction and unsustainable.*

13. (i) *On the facts and circumstances of the case, the disallowance of Rs. 8,39,17,530/- made in the reassessment order under section 14A rwr BD of the Act is illegal, invalid, unsustainable and liable to be deleted.*

(ii) *That the above said disallowance has been made without recording the mandatory satisfaction, as required under section 14A(2) of the Act read with Rule 8D of the Income-tax Rules, 1962.*

14. (i) *On the facts and circumstances of the case, the disallowance of Rs. 28,54,01,300/- made in the assessment order on estimation basis as 2% of total purchases of Rs 14,27,00,65,000/- claimed by the assessee treating the same as unverifiable is invalid, illegal and unsustainable.*

(ii) *That the above said addition made in the assessment order on an estimated basis, which is illegal, arbitrary, unjustified, and unsustainable in law.*

15. *On the facts and circumstances of the case, the abovesaid addition has been made ignoring the settled position of law that when sales have not been doubted corresponding purchases cannot be treated as non-genuine.*

*16. (i) On the facts and circumstances of the case, the abovesaid addition has been made by rejecting the books of the assessee which is illegal, invalid and contrary to the facts on record.*

*(ii) That the abovesaid addition has been made in the assessment order despite the fact that assessee has been maintaining regular books of accounts, stock register and financial statement are audited as per law and nothing adverse has been pointed out by the AO.*

*17. On the facts and circumstances of the case, the abovesaid addition made in the assessment order is illegal and unsustainable as the same has been made without conducting any independent enquiry under section 133(6)/131 of the Act during the course of reassessment proceedings.*

*18. That the respondent craves leave to add, amend or alter any of the grounds of appeal.”*

5. Heard rival submissions and carefully scanned the material available on record.
6. In the course of hearing, the Learned AR not pressed cross objections filed by assessee and requested to decide accordingly.
7. Reiterating the grounds of appeal, the Learned DR submitted that the Learned CIT(A) erroneously quashed the notice dated 31-03-2023 and consequential assessment order u/s 147 of the Act dated 31-03-2024 by wrongly misapplying para 31.3 of CBDT Circular No. 23/2022 dated 03-11-2022 and ignored statutory provisions and held that the Learned AO assumed jurisdiction wrongly without appreciating that under Explanation 2(4) to section 148 of the Act the AO is deemed to have information suggesting escapement of income, once satisfied that documents seized during the search pertain or relate to assessee.
8. The Learned CIT(A), in impugned order, observed as under:

“5. In this case, it is relevant to mention here that under the Finance Act, 2021, the Assessing Officer was purportedly empowered to reopen assessments for three assessment years immediately preceding the assessment year relevant to the previous year in which a search was initiated. However, if the unamended provision as it stood on 01.04.2021 were to be applied, the Assessing Officer was not empowered to reopen assessment years beyond the said three years, even where incriminating material was available. This anomaly has rightly been cured by the Finance Act, 2022 through retrospective amendment effective from 01.04.2021.

5.4. Further, the appellant has contended that post such retrospective amendment, Explanation 2(iv) to section 148 can be invoked only where incriminating material relating to or pertaining to a particular assessment year is found and seized during the course of search and such material relates to the appellant. Applying the retrospectively amended provision of Explanation 2(iv) to section 148, as introduced by the Finance Act, 2022, to the facts of the present appeal, and upon perusal of the seized material, it is evident that no incriminating material was found during the search conducted on Proforma Interiors Pvt. Ltd. that implicates the appellant for the assessment year under consideration. Specifically, there is no document on record to show that the appellant paid any cash to Proforma Interiors Pvt. Ltd. 5.5 On perusal of Assessment Order and written submission filed by the appellant it is found that no incriminating material was found for the relevant Assessment year i.e. AY-2020-21, the relevant para of the Assessment Order is reproduced as under:

| Sr. No. | Date of cash payment | Amount        | Relevant A.Y. |
|---------|----------------------|---------------|---------------|
| 1       | 17.12.2012           | 13,00,000     | 2013-14       |
| 2       | 19.08.2013           | 3,00,000      | 2014-15       |
| 3       | 25.05.2016           | 10,00,000     | 2017-18       |
| 4       | 01.06.2016           | 10,00,000     |               |
| 5       | 16.09.2017           | 15,00,000     | 2018-19       |
| 6       | 01.06.2018           | 30,00,000     |               |
| 7       | 05.06.2018           | 13,00,000     |               |
| 8       | 21.06.2018           | 3,87,000      | 2019-20       |
| 9       | 03.07.2018           | 9,32,000      |               |
| 10      | 11.10.2018           | 4,97,000      |               |
| Total   |                      | 1,12,16,000/- |               |

(Table 1: break up of cash payments made by the assessee as seen in the Excel sheets)

5.6. Further, relevant para of the CBDT Circular no. 23/2022 dated 03-11-2022 with regard to EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE ACT, 2022 are under:

*"Para 31.3 To correct the inadvertent drafting errors and align the provisions with the intent of the section, amendments have been made,*

*(i) in section 148 to omit the word "flagged" from clause (i) of Explanation 1, (ii) in clause*

*(ii) of Explanation 2 to section 148 to omit the reference of sub-section (5) of section 133A made therein. Applicability: These amendments are effective from 1st April, 2022.*

*(iii) in Explanation 2 of section 148 to omit the reference to three assessment years preceding the assessment year relevant to the year of search;*

*(iv) in section 153B by inserting sub-section (4) to provide that nothing contained in the said section shall apply to any search initiated under section 132 or requisition made under section 132A on or after the 1st day of April, 2021.*

*(v) ....."*

9. The Learned AR submitted that a search action has been carried out on third parties on 09.02.2022, and the case of both the assesseees have been reopened u/s 148 Explanation 2(iv) of the Act, by issuing a notice u/s 148 on 31.03.2023 and the notice u/s 148 issued on the basis of excel sheet found during the course of search on the third party (placed in appeal set page no. 51-52 for AY 2020-21 and appeal set page no. 49-50 for AY 2021-22) but no entry found in the seized excel sheet relevant for AY 2020-21 and AY 2021-22. It is also submitted that the Learned AO in the satisfaction note (well placed in PB page no. 82-83 for AY 2020-21 and PB

page no. 80-81 for AY 2021-22) details of cash payments made by the assesseees to the search party in tabular form which as under:

| Payment Date       | Cash Payment (Rs.)  | Concerned AY |
|--------------------|---------------------|--------------|
| 17.12.2012         | 13,00,000.00        | 2013-14      |
| <b>Total</b>       | <b>13,00,000.00</b> |              |
| 19.08.2013         | 3,00,000.00         | 2014-15      |
| <b>Total</b>       | <b>3,00,000.00</b>  |              |
| 25.05.2016         | 10,00,000.00        | 2017-18      |
| 01.06.2016         | 10,00,000.00        | 2017-18      |
| <b>Total</b>       | <b>20,00,000.00</b> |              |
| 16.09.2017         | 15,00,000.00        | 2018-19      |
| <b>Total</b>       | <b>15,00,000.00</b> |              |
| 16.04.2018         | 21,23,500.00        | 2019-20      |
| <b>Total</b>       | <b>21,23,500.00</b> |              |
| <b>Grand Total</b> | <b>92,23,500.00</b> |              |

It is also argued that mere perusal of above, no allegation has been made by the Learned AO in respect of both the assesseees in AY 2020-21 and AY 2021-22. hence, the seized material relied upon by the Learned AO for reopening u/s 148 does not contain any transaction or entry relating to the assesseees for the relevant assessment years. Further submitted that the Learned CIT(A) rightly allowed the appeal of the assessee on the ground that no incriminating material was found during the course of search in the case of third parties for the relevant assessment years. It is also submitted that the very foundation of the reopening proceedings was the alleged cash payment to search party as recorded in the reasons for reopening but in the assessment order, no addition made on account of cash payment to M/s Proform Interiors and it is established legal position that where no addition is made on the

ground on which the assessment was reopened, cannot make addition on other issues.

10. On the basis of foregoing fact situation, we find that the Learned CIT(A) has passed a reasonable order which is self explanatory as its detailed findings already been narrated above and accordingly no any interference is required. Hence, we uphold the same.

11. Consequently, the both appeals of Revenue are dismissed and the both cross objections of the assessee are dismissed as not pressed.

*Order is pronounced in the Open Court on 20.08.2026*

**Sd/-**

**(AMITABH SHUKLA)  
ACCOUNTANT MEMBER**

**Sd/-**

**(SUDHIR PAREEK)  
JUDICIAL MEMBER**

Dated: 20.08.2026

*\*GP/Sr.PS\**

Copy forwarded to:

1. Appellant
1. Respondent
2. CIT(E)
3. CIT
4. DR: ITAT

**ASSISTANT REGISTRAR  
ITAT NEW DELHI**