D.K. Realty India Private Limited v. Assistant Commissioner of Income Tax, Circle 1(3)(1), Mumbai & Ors.

WP 2102/2022

WP 2102/2022 (High Court of Bombay, 2023-02-15) | 2023-02-15

Reopening after specific scrutiny of the same deposits quashed as change of opinion.

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High Court of Bombay | Division Bench | Justice Dhiraj Singh Thakur | Justice Valmiki Sa Menezes

Assessment years: 2017-18

Scope of this order

Reassessment jurisdiction failed; the Court did not independently certify the commercial genuineness of every deposit.

01 FACTS OF THE CASE

For AY 2017-18, the reopening reasons concerned deposits totalling Rs.9,65,50,000. Investigation information was already available before the original scrutiny. The officer specifically queried the transactions in November 2019 and received December 2019 replies before completing assessment.

Source: PDF p. 4

02 DISCUSSION BY THE HON'BLE COURT

Although the notice was within four years, the Court held that the requirement of reason to believe still applied. Reconsideration of transactions already examined, without fresh material, was an impermissible change of opinion.

Source: PDF p. 7

03 JUDICIAL DECISION

The section 148 notice dated 30 March 2021, rejection of objections dated 16 March 2022 and draft assessment dated 21 March 2022 were quashed. No costs were awarded.

Source: PDF p. 8

04 OUTCOME / IN WHOSE FAVOUR

Reassessment jurisdiction failed; the Court did not independently certify the commercial genuineness of every deposit.

Source: PDF p. 8

05 EXPERT COMMENTS

Specific scrutiny establishes the prior examination — The targeted query and dated replies connect the original assessment to the same deposit issue. The information was available before that assessment, so its later reuse did not itself establish fresh material.

Within four years still requires reason to believe — Absence of the additional beyond-four-year disclosure condition did not permit review of an already examined issue. The Court applied the change-of-opinion principle in Kelvinator to the actual assessment record.

Retain the source year discrepancy — The opening and reopening reasons identify AY 2017-18, while paragraph 6 on PDF page 5 refers to AY 2016-17. This inconsistency is preserved rather than silently treating both years as adjudicated.

Source: PDF p. 5

SOURCE & VERIFICATION

Primary High Court order - verified local repository copy

Complete 8-page source PDF; corrected note based on this document.

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

Open cited source rendition

All 8 physical source pages read and visually inspected. SHA-256: e244242966da92bb0ce9d7359efea6ae50354fed6b92643b15eb55972c301bfa.

STATUTORY SCOPE

The judgment applies the pre-2021 reassessment framework to the impugned notice. It is not current-law clearance.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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