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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 143/2025 and CM APPLs. 29619-20/2025  
+ ITA 144/2025 and CM APPLs. 28623-24/2025  
+ ITA 145/2025 and CM APPLs. 28626-27/2025  
+ ITA 146/2025 and CM APPLs. 28872-73/2025  
+ ITA 147/2025 and CM APPLs. 28900-01/2025

**THE PR. COMMISSIONER OF INCOME TAX -CENTRAL -1**

.....Appellant

Through: Mr Ruchir Bhatia, SSC with Mr  
Pratyaksh Gupta, JSC.

versus

**BJN HOLDINGS LTD.**

.....Respondent

Through: Mr Ajay Vohra, Sr. Advocate with  
Mr Vaibhav Kulkarni and Ms  
Aabgina Chishti, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**ORDER**

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**13.05.2025**

1. The Revenue has filed the present appeals impugning a common order passed by the Income Tax Appellate Tribunal [ITAT] in ITA Nos.42/Del/2022 to 46/Del/2022 in respect of Assessment Years [AYs] 2006-07 to 2010-11. The said appeals were preferred by the Revenue against the orders dated 31.01.2020 passed by the Commissioner of Income Tax (Appeals)-24, New Delhi [CIT(A)]. In terms of the said orders, the respective assessment orders which were subject matter of challenge before



the CIT(A) were set aside following the decision of this court in *PCIT v. Maruti Suzuki India Ltd.: Neutral Citation No.: 2015:DHC:10110-DB* and *Spice Infotainment Ltd. v. Commissioner of Service Tax: (2012) 247 CTR 500* on the ground that the assessments had been framed on a person that did not exist is illegal and an order passed pursuant to is nullity. The learned ITAT found no reason to differ from the decision of the CIT(A).

2. It is in the aforesaid context that the Revenue contends that the CIT(A) and learned ITAT were not justified in passing the order and not appreciating that the assessment had been framed on the Assessee through its successor-in-interest M/s BJNI Holding Ltd.

3. Mr Vohra, the learned Senior Counsel appearing for the Assessee on advance notice, submits that the entire issue has been rendered academic in view of the decision of the Supreme Court in the Assessee's case rendered on 25.04.2023. He submits that the assessments in the present case were framed under Section 153C of the Income Tax Act, 1961 [**the Act**] read with Section 143(3) of the Act. It is the Assessee's case that there was no incriminating material that would warrant exercise of jurisdiction under 153C of the Act.

4. In the aforesaid context, the Assessee had filed a writ petition before this court being WP(C) 1708/2014 challenging the validity of Section 153C of the Act. The same was disposed of by a judgment dated 02.05.2018 rendered by this court in a batch of matters where similar challenge had been raised by the Assesseees in the context of the search conducted in Dhingra Group of cases. This court had rejected the said contention by referring to the decision in the case of *Commissioner of Income Tax v. Kabul Chawla: 380 ITR 573* as well as the certain other decisions where exercise of



jurisdiction under Section 153C of the Act was held to be circumscribed to the extent that the same could be invoked only on the basis of incriminating material found during the search. These decisions, according to this court, had rendered the challenge to the provisions of Section 153 of the Act academic. The Revenue had appealed the said decision before the Supreme Court. The said batch of appeals [Civil Appeal No.6634/2021 captioned ***Deputy Commissioner of Income Tax Central Circle 20 v. M/s U.K. Paints (Overseas) Ltd.*** and other connected matters] that also included Civil Appeal No.6656/2021 which arose from the order passed by this court in WP(C) 1708/2014, were dismissed by the Supreme Court. The Supreme Court upheld the said decision and also recorded the following finding:

“As observed hereinabove, as no incriminating material was found in case of any of the Assessee either from the Assessee or from the third party and the assessments were under Section 153-C of the Act, the High Court has rightly set aside the Assessment Order(s). Therefore, the impugned judgment and order(s) passed by the High Court do not require any interference by this Court. Hence, all these appeals deserve to be dismissed and are accordingly dismissed.”

5. In view of the conceded position that no incriminating material was found during the search pursuant to which notices under Section 153C of the Act were issued to the Assessee, the said assessments would not stand, notwithstanding the outcome of the challenge sought to be raised in the present appeals. We note that the decision of the Supreme Court was rendered on 25.04.2023, which was few days prior to the impugned order and thus it is understandable that the said decision was not brought to the notice of the learned ITAT.

6. In view of the above, we are *prima facie* of the view that no question of law would arise for consideration in the facts of this case.



7. Mr Bhatia, the learned counsel appearing for the Revenue requests for time to take instructions in view of the facts that have been now placed by Mr Vohra, before this court.

8. List on 15.05.2025.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**MAY 13, 2025/tr**

*Click here to check corrigendum, if any*