



\$~50

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

%

Date of Decision : 02.05.2025

+ **W.P.(C) 5808/2025, CM APPL. 26442/2025 & CM APPL. 26443/2025**

CAPITAL IMPEX PVT LTD

.....Petitioner

Through: Dr. Kapil Goel & Mr. Sandeep Goel,
Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 4(2),
DELHI

.....Respondent

Through: Mr. Debesh Panda, Senior Standing
Counsel with Ms. Zehra Khan, Jr. SC,
Mr. Vikramaditya Singh, Jr.SC & Mr.
Kanishk Aggrawal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

1. The petitioner has filed the present petition, *inter alia*, impugning the notice dated 30.03.2024 [**the impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] seeking to reopen the assessment in respect of the Assessment Year [**AY**] 2014-15.
2. The petitioner's case is that the impugned notice has been issued beyond the period of the limitation.
3. In the present case, the petitioner had filed its return of income for the



AY 2014-15 on 21.09.2014 declaring the income of ₹9,34,030/-. On 09.06.2022, a search was conducted under Section 132(1) of the Act at the premises of an individual namely, Sh. Naresh Kumar Kejriwal. During the said search, certain documents were found and it was alleged that the same contained details of foreign transactions from a company in Nigeria named Everest Metal Nigeria Limited. It was found that the company maintained a list of around 40 clients whose cash were deposited in the account of Everest Metal Nigeria Limited. One such beneficiary being M/s Captial Impex Pvt. Ltd. received the amount from Everest Nigeria Ltd. during the AY 2014-15. Based on the said material, the Assessing Officer [AO] issued the impugned notice on 30.03.2024.

4. Although the provisions of Section 153C of the Act are inapplicable in respect of searches conducted after 31.03.2021, it is relevant to consider whether a notice under Section 153C of the Act could be issued for the relevant AY 2014-15 for the purposes of determining whether a notice under Section 148 of the Act could be issued in view of the proviso to Section 149(1) of the Act.

5. Since there is no mandatory requirement for an Assessing Officer of a searched person to record his satisfaction that the assets or documents found during the search belong to a person other than the one searched or contained information regarding such other person. Thus, for the purposes of considering the limitation under Section 153C of the Act, it is apposite to consider the date on which the decision is taken by the Assessing Officer to take steps for initiating re-assessment proceedings as the relevant date.

6. In *Dinesh Jindal v. Assistant Commissioner of Income Tax, Central*



Circle 20, Delhi & Ors.: Neutral Citation No.:2024:DHC:4554-DB, this Court had considered a similar issue and observed as under:

“8. Undisputedly, and in terms of Section 153C(3) of the Act, any search if conducted after 01 April 2021, would cease to be regulated by that provision. Sub-section (3), in that sense, embodies a sunset clause insofar as the applicability of Section 153C is concerned. The First Proviso to Section 149(1), however, bids us to go back in a point of time, and to examine whether a reopening would sustain bearing in mind the timeframes as they stood embodied in Section 149(1)(b) or Section 153A and 153C, as the case may be. The First Proviso essentially requires us to undertake that consideration bearing in mind the timeframes which stood specified in Sections 149, 153A and 153C as they stood prior to the commencement of Finance Act, 2021.

9. Thus, an action of reassessment which comes to be initiated in relation to a search undertaken on or after 01 April 2021 would have to meet the foundational tests as specified in the First Proviso to Section 149(1). A reassessment action would thus have to not only satisfy the time frames constructed in terms of Section 149, but in a relevant case and which is concerned with a search, also those which would be applicable by virtue of the provisions of Section 153A and 153C.

10. Undisputedly, and if the validity of the reassessment were to be tested on the anvil of Section 153C, the petitioner would be entitled to succeed for the following reasons. It is an undisputed fact that the proceedings under Section 148 commenced on the basis of the impugned notice dated 30 March 2023. This date would be of seminal importance since the period of six AYs’ or the “relevant assessment year” would have to be reckoned from the date when action was initiated to reopen the assessment pertaining to AY 2013-14.”

7. We also consider it apposite to refer to the decision in the case of **Principal Commissioner of Income Tax- Central-1 v. Ojjus Medicare Pvt.**



Ltd.: Neutral Citation No.:2024:DHC:2629-DB, where this Court had explained the manner for calculating the block of six years and ten years for the purpose of computing the limitation for issuance of a notice under Section 153C of the Act read with Section 153A of the Act as under:

“D. The First Proviso to Section 153C introduces a legal fiction on the basis of which the commencement date for computation of the six year or the ten year block is deemed to be the date of receipt of books of accounts by the jurisdictional AO. The identification of the starting block for the purposes of computation of the six and the ten year period is governed by the First Proviso to Section 153C, which significantly shifts the reference point spoken of in Section 153A(1), while defining the point from which the period of the “relevant assessment year” is to be calculated, to the date of receipt of the books of accounts, documents or assets seized by the jurisdictional AO of the non-searched person. The shift of the relevant date in the case of a non-searched person being regulated by the First Proviso of Section 153C (1) is an issue which is no longer *res integra* and stands authoritatively settled by virtue of the decisions of this Court in *SSP Aviation* and *RRJ Securities* as well as the decision of the Supreme Court in *Jasjit Singh*. The aforesaid legal position also stood reiterated by the Supreme Court in *Vikram Sujitkumar Bhatia*. The submission of the respondents, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted.

E. The reckoning of the six AYs’ would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs’ would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed



to the year of search which constitutes the basis for an assessment under Section 153A.

F. While the identification and computation of the six AYs' hinges upon the phrase "immediately preceding the assessment year relevant to the previous year" of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly, Explanation 1 of Section 153A requires us to reckon it "from the end of the assessment year". This distinction would have to necessarily be acknowledged in light of the statute having consciously adopted the phraseology "immediately preceding" when it be in relation to the six year period and employing the expression "from the end of the assessment year" while speaking of the ten year block."

8. Bearing in mind the aforesaid principles, the block of ten assessment years is required to be reckoned from the end of the AY 2024-25 being the assessment year relevant to the financial year in which the impugned notice under Section 148 was issued on 30.03.2024. A tabular statement setting out the block of ten years as set out in the petition is reproduced below:

AY 2024-25	Year 1
AY 2023-24	Year 2
AY 2022-23	Year 3
AY 2021-22	Year 4
AY 2020-21	Year 5
AY 2019-20	Year 6
AY 2018-19	Year 7
AY 2017-18	Year 8
AY 2016-17	Year 9
AY 2015-16	Year 10
AY 2014-15	Year 11



9. Concededly, the issue involved in the present case is covered by the earlier decisions of this court in *Dinesh Jindal v. Assistant Commissioner of Income Tax, Central Circle 20, Delhi & Others: Neutral Citation: 2024:DHC:4554-DB*, *KAD Housing Private Limited v. Deputy Commissioner of Income Tax Central Circle-6, Delhi : Neutral Citation : 2024:DHC:8214-DB* and *Pankaj Jain v. Assistant Commissioner of Income Tax, Central Circle 3, Delhi & Anr. : Neutral Citation: 2025:DHC:157-DB*.

10. The learned counsel appearing for the Revenue concurs with the aforesaid proposition.

11. In view of the above, the present petition is allowed. The impugned notice is set aside as being barred by limitation.

12. The petition is disposed of in the aforesaid terms. The pending application(s) also stands disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 02, 2025/ 'A'

[Click here to check corrigendum, if any](#)