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

% *Date of Decision: 14.07.2025*

- + W.P.(C) 3979/2025 CM APPL. 18499/2025 CM APPL. 18500/2025 CM APPL. 39396/2025
- + W.P.(C) 3980/2025 CM APPL. 18502/2025 CM APPL. 18503/2025 CM APPL. 39490/2025
- + W.P.(C) 3981/2025 CM APPL. 18505/2025 CM APPL. 18506/2025 CM APPL. 39496/2025
- + W.P.(C) 3982/2025 CM APPL. 18508/2025 CM APPL. 18509/2025 CM APPL. 39394/2025
- + W.P.(C) 3984/2025 CM APPL. 18514/2025 CM APPL. 18515/2025 CM APPL. 39555/2025
- + W.P.(C) 3985/2025 CM APPL. 18517/2025 CM APPL. 18518/2025 CM APPL. 39391/2025

NEERAJ BHARADWAJ

.....Petitioner

Through: Mr Sachit Jolly, Sr. Advocate with Mr Rishi Agrawala, Mr Vaibhav Mishra, Ms Niyati Kohli, Mr Abhyudaya Shankar and Mr Pratham Vir Agarwal, Advocates.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE INT TAX 1(1)(2) & ANR.

.....Respondents

Through: Mr Debesh Panda, SSC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J.

1. The Assessee has filed the present set of petitions impugning the notices (all dated 24.06.2024) issued under Section 153C of the Income Tax Act, 1961 [Act] in respect of assessment years [AY] 2015-16 to 2020-21.



The said notices were premised on material found during the search and seizure operations conducted on 07.04.2019 under Section 132 of the Act in the case of Moser Baer Group and other related parties. The Assessee is related to one of the Directors and Promoter of Moser Baer Group of Companies.

2. During the search proceedings conducted at 43B, Okhla Phase-III, New Delhi certain documents were found which related to purchase of lands. These documents were seized and examined. The Assessing Officer [AO], exercising jurisdiction in respect of the searched persons, recorded a Satisfaction Note on 06.07.2023 expressing his satisfaction that the information contained in the seized documents, which were mentioned in the Satisfaction Note, related to the Assessee (being a person other than the searched person). The said documents were also forwarded to the AO, exercising jurisdiction in the case of the Assessee. The AO examined the said documents as well as the Satisfaction Note dated 06.07.2023 on the very same date and recorded his satisfaction to the effect that the information contained in the documents had a bearing on the total income of the Assessee. And, he was satisfied that it was a fit case for initiation of proceedings under Section 153C of the Act for AYs 2015-16 to 2020-21.

3. The Assessee challenges the impugned notices principally on the ground that there was no incriminating material pertaining to the previous years, relevant to the AYs in question, and therefore re-initiation of reassessment under Section 153C of the Act in respect of the AYs in question is without jurisdiction.



4. The Revenue has filed the counter affidavit enclosing therewith the Satisfaction Note recorded by the AO. The said note refers to the material and documents found which, according to the AO, has a bearing on the income of the Assessee for the relevant AYs. Paragraph No.3 of the Satisfaction Note encapsulating the allegations on which the impugned notices are founded is set out below:

“3. The seized document in question contains the details of purchase of agricultural land by Ms. Sabena Puri and the assessee, Mr. Neeraj Bhardwaj, situated at Vill - Bandhwadi, Sohna, Distt - Gurgaon admeasuring (i)- 8 Kanal (1 Acre) and ii)- 17 Kanal 13 Marlas (2.20625 Acres)] in December, 2013. The documents reveal that the said land was purchased at a higher rate than was shown in sale deed. Thus, the difference of the amount of actual sale consideration and that shown in sale deed was paid in cash and was unaccounted. A brief of the sale consideration as found from the documents seized from the premise is as given below:

Land no.	Area in Acres	Situated at	Rate per Acre	Actual sale consideration (INR)	Amount paid in cheque (shown in sale deed)	Amount paid in cash
1.	8 Kanal (1 Acre)	Village – Bandhwadi	3.20 Crores	3,20,00,000/-	90,00,000/-	2,30,00,000/-
2.	17 Kanal 13 Marlas (2.20625 Acres)	Sohna, Distt- Gurgaon	3.40 Crores	7,50,12,500/-	1,98,56,250/-	5,51,56,250/-
	Total			10,70,12,500/-	2,88,56,250/-	7,81,56,250/-”

5. The Satisfaction Note also sets out images of two documents containing excel sheets, which reflect payment of ₹2,30,00,000/- being paid in cash in addition to ₹90,00,000/- paid in respect of property measuring one acre. Similarly, the said sheets also reflect the amounts paid in cash in addition to cheques to various parties aggregating ₹5,51,56,250/- in respect of land ad-measuring 2.20625 acres. It is material to note that the



documents also enclose sale deeds in respect of the lands in question, which were executed in December, 2013. The AO also noted that seized documents contained the details of the transactions for sale and purchase of land “in December, 2013”. Additionally, it is also conceded that payments in cash, as reflected in the documents, were made on various dates between 06.12.2013 to 03.01.2014. We also consider it apposite to reproduce Paragraph 3.2 of the Satisfaction Note which sets out the details of the payments made in cash. The same is set out below:

“3.2 It is seen from the above documents that the details of payments through banking channels available in the sheets i.e., pages No. 87 to 92 of Annexure A-1 seized from 438, Okhla Phase-III, New Delhi are exactly matching with the details of payments made through banking channels mentioned in the copy of sale deeds seized from the same premise. With respect to Land No. 1, Page numbers 92, 84 and 81 of the seized records are relevant and interconnected. The details of payment made through banking channels are exactly matching with the details of payments made through banking channels mentioned in the sale deed.

Similarly in the case of Land No. 2, Page numbers 87, 67, 62 & 61 of the seized records are relevant and interconnected. The details of payment made through banking channels are exactly matching with the details of payments made through banking channels mentioned in the sale deed. Following are the details of transfer of the land from the different farmers to Ms. Sabena Puri and Mr. Neeraj Bhardwaj.

Land No.	Name of Seller	Share as per sale deed	Cheque Payment	Cash payment	Date of payment	Actual sale consideration (INR)
8 Kanal (1 Acre)	Pemi	34/320	1912500	4887500		6800000
	Maya	35/320	1293750	5031250		632500
	Dharampal	34/320	1968750	4887500		6856250
	Mahipal	34/320	1912500	4887500		6800000
	Bilandar	23/320	1912500	3306250		5218750
	All s/o Antram s/o Ishri	Total	9000000	23000000		32000000
17 Kanal 13 Marlas	Jagan s/o Bhule	¼ share	4964062	2500000	06.12.13	9464062
				2000000	10.12.13	
	Bagmal s/o Bhule	¼ share	4964062	3000000	12.12.13	10964062
				3000000	13.12.13	



(2.20625 Acres)	Tajuram / Tejpal s/o Bhule	¼ share	4964062	4000000	16.12.13	1294062
				4000000	16.12.13	
	Anil s/o Shahmal Bhule	1/16 share	1241015	3000000	18.12.13	7241015
				3000000	18.12.13	
	Ajay s/o Shahmal Bhule	1/16 share	1241015	4000000	19.12.13	7241015
				3000000	20.12.13	
	Smt. Rajo w/o Shahmal Bhule	3/32 share	1861527	4000000	23.12.13	8861527
				3000000	24.12.13	
	Smt. Suresh s/o Tejuraml Bhule	1/32 share	620507	3000000	26.12.13	18120507
				14500000	03.01.14	
		Total	19856250	55000000		74856250
		Grand Total	28856250	78000000		106856250

On receiving the satisfaction note and the seized data, the undersigned has gone through the seized data i.e. Annexure A-1, and has recorded the finding in this satisfaction note. The said satisfaction note prepared by the AO of the person searched has been kept on record. I have also examined the above documents and the contents noted/written therein. After examination of these documents, I am also satisfied that the information contained in these documents relates to Mr. Neeraj Bhardwaj. Further, the information contained therein has a bearing on the determination of the total income of Assessee. In view of the same, I am further, satisfied that it is fit case for initiating proceedings u/s 153C of the Income Tax Act, 1961 for the AY 2014-15 to 2020-21.”

6. It is important to note that the impugned notices are premised on the singular satisfaction note as referred to above. It is also clear from the contents of the satisfaction note that there is no material, which has any bearing on the income of the Assessee for the AYs 2015-16 to 2020-21. Assuming that the allegations as noted in the satisfaction note to the effect that the consideration of certain immovable properties purchased in the name of the Assessee’s wife, were paid partly in cash, is correct; the same does not provide any ground to assume that the income chargeable to tax during the AYs 2015-16 to 2020-21 had escaped assessment.



7. The immovable properties were purchased in the name of the Assessee's wife. However, it is not necessary to examine whether the purchase of the properties in the name of the Assessee's wife could have a bearing on the income of the Assessee. This is because, in any view of the matter, the said transaction has no bearing on the income chargeable to tax during the AYs 2015-16 to 2020-21. As noted above, the alleged payments in cash were during the financial year [FY] 2013-14 relevant to AY 2014-15. Thus, such payments may have bearing on the income chargeable to tax during the AY 2014-15. However, the information as noted in the satisfaction note does not provide any ground for issuance of the impugned notices for the AYs 2015-16 to 2020-21.

8. It is well settled that the assessments under Section 153C read with Section 153A of the Act cannot be made unless the AO has in his possession incriminating material in the form of (i) money, bullion, jewellery or other valuable article or thing, seized or requisitioned which belong to the Assessee; or (ii) books of account or documents seized or requisitioned that pertains to the Assessee or contain information relating to the Assessee, which has a bearing on the income of the Assessee.

9. In *CIT v. Sinhgad Technical Education Society: (2018) 11 SCC 490*, the Income Tax Appellate Tribunal [ITAT] found that the jurisdictional fact for making assessments under Section 153C of the Act in respect of four assessment years out of the block of assessment years for which notices under Section 153C of the Act had been issued, were not sustainable as the co-relation between the documents and the four assessment years was not established. The relevant extract of the said decision is set out below:



“15. In these appeals, qua the aforesaid four assessment years, the assessment is quashed by the ITAT (which order is upheld by the High Court) on the sole ground that notice under Section 153-C of the Act was legally unsustainable. The events recorded above further disclose that the issue pertaining to validity of notice under Section 153-C of the Act was raised for the first time before the Tribunal and the Tribunal permitted the assessee to raise this additional ground and while dealing with the same on merits, accepted the contention of the assessee.

16. First objection of the learned Solicitor General was that it was improper on the part of the ITAT to allow this ground to be raised, when the assessee had not objected to the jurisdiction under Section 153-C of the Act before the AO. Therefore, in the first instance, it needs to be determined as to whether ITAT was right in permitting the assessee to raise this ground for the first time before it, as an additional ground.

17. The ITAT permitted this additional ground by giving a reason that it was a jurisdictional issue taken up on the basis of facts already on the record and, therefore, could be raised. In this behalf, it was noted by the ITAT that as per the provisions of Section 153-C of the Act, incriminating material which was seized had to pertain to the assessment years in question and it is an undisputed fact that the documents which were seized did not establish any correlation, document-wise, with these four assessment years. Since this requirement under Section 153-C of the Act is essential for assessment under that provision, it becomes a jurisdictional fact. We find this reasoning to be logical and valid, having regard to the provisions of Section 153-C of the Act. Para 9 of the order of the ITAT reveals that ITAT had scanned through the Satisfaction Note and the material which was disclosed therein was culled out and it showed that the same belongs to Assessment Year 2004-05 or thereafter. After taking note of the material in para 9 of the order, the position that emerges therefrom is discussed in



para 10. It was specifically recorded that the counsel for the Department could not point out to the contrary. It is for this reason the High Court has also given its imprimatur to the aforesaid approach of the Tribunal. That apart, the learned Senior Counsel appearing for the respondent, argued that notice in respect of Assessment Years 2000-01 and 2001-02 was even time-barred.

18. We, thus, find that the ITAT rightly permitted this additional ground to be raised and correctly dealt with the same ground on merits as well. Order of the High Court affirming this view of the Tribunal is, therefore, without any blemish. Before us, it was argued by the respondent that notice in respect of Assessment Years 2000-01 and 2001-02 was time-barred. However, in view of our aforementioned findings, it is not necessary to enter into this controversy.

19. Insofar as the judgment of the Gujarat High Court relied upon by the learned Solicitor General is concerned, we find that the High Court in that case has categorically held that it is an essential condition precedent that any money, bullion or jewellery or other valuable articles or thing or books of accounts or documents seized or requisitioned should belong to a person other than the person referred to in Section 153-A of the Act. This proposition of law laid down by the High Court is correct, which is stated by the Bombay High Court in the impugned judgment as well. The judgment of the Gujarat High Court in the said case went in favour of the Revenue when it was found on facts that the documents seized, in fact, pertain to third party i.e. the assessee, and, therefore, the said condition precedent for taking action under Section 153-C of the Act had been satisfied.”

10. In *CIT v. Kabul Chawla: (2016) 380 ITR 573*, this Court had, in the context of Section 153A of the Act, held that an assessment under Section 153A of the Act could be made only on the basis of some incriminating material unearthed during the course of the search or on requisition of



documents or undisclosed income discovered during the course of the search.

11. In *CIT v. Abhisar Buildwell (P.) Ltd.: (2024) 2 SCC 433*, the Supreme Court considered the question whether the jurisdiction of the AO to make an assessment was confined to the incriminating material found during the course of the search under Section 132 or requisition under Section 132A of the Act. The Supreme Court expressly affirmed the view of this Court in *CIT v. Kabul Chawla (supra)* and rejected the contention that the AO could assess or reassess the income of the assessee even where no incriminating material have been found during the course of the search. We consider it apposite to set out the following extract from the said decision:

“26. In *Kabul Chawla [CIT v. Kabul Chawla, 2015 SCC OnLine Del 11555 : (2016) 380 ITR 573]*, the Delhi High Court, while considering the very issue and on interpretation of Section 153-A of the 1961 Act, has summarised the legal position as under : (SCC OnLine Del para 38)

“*Summary of the legal position*

38. On a conspectus of Section 153-A(1) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

(i) Once a search takes place under Section 132 of the Act, notice under Section 153-A(1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding the previous year relevant to the AY in which the search takes place.

(ii) Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh



exercise.

(iii) The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the “total income” of the aforementioned six years in separate assessment orders for each of the six years. In other words there will be only one assessment order in respect of each of the six AYs ‘in which both the disclosed and the undisclosed income would be brought to tax’.

(iv) Although Section 153-A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment ‘can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material.’

(v) In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word “assess” in Section 153-A is relatable to abated proceedings (i.e. those pending on the date of search) and the word “reassess” to completed assessment proceedings.

(vi) Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under Section 153-A merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record of the AO.

(vii) Completed assessments can be interfered with by the AO while making the assessment under Section 153-A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered



in the course of search which were not produced or not already disclosed or made known in the course of original assessment.”

27. Thereafter in *Saumya Construction* [*CIT v. Saumya Construction (P) Ltd.*, 2016 SCC OnLine Guj 9976 : (2016) 387 ITR 529] , the Gujarat High Court, while referring the decision of the Delhi High Court in *Kabul Chawla* [*CIT v. Kabul Chawla*, 2015 SCC OnLine Del 11555 : (2016) 380 ITR 573] and after considering the entire scheme of block assessment under Section 153-A of the 1961 Act, had held that in case of completed assessment/unabated assessment, in absence of any incriminating material, no addition can be made by the AO and the AO has no jurisdiction to reopen the completed assessment. In paras 15 and 16, it is held as under : (*Saumya Construction case* [*CIT v. Saumya Construction (P) Ltd.*, 2016 SCC OnLine Guj 9976 : (2016) 387 ITR 529] , SCC OnLine Guj)

“15. On a plain reading of Section 153-A of the Act, it is evident that the trigger point for exercise of powers thereunder is a search under Section 132 or a requisition under Section 132-A of the Act. Once a search or requisition is made, a mandate is cast upon the assessing officer to issue notice under Section 153-A of the Act to the person requiring him to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and assess or reassess the same. Since the assessment under Section 153-A of the Act is linked with search and requisition under Sections 132 and 132-A of the Act, it is evident that the object of the section is to bring to tax the undisclosed income which is found during the course of or pursuant to the search or requisition. However, instead of the earlier regime of block assessment whereby; it was only the undisclosed income of the block period that was assessed, Section 153-A of the Act seeks to assess the total income for the assessment



year, which is clear from the first proviso thereto which provides that the assessing officer shall assess or reassess the total income in respect of each assessment year, falling within such six assessment years. The second proviso makes the intention of the legislature clear as the same provides that assessment or reassessment, if any, relating to the six assessment years referred to in the sub-section pending on the date of initiation of search under Section 132 or requisition under Section 132-A, as the case may be, shall abate. Sub-section (2) of Section 153-A of the Act provides that if any proceeding or any order of assessment or reassessment made under sub-section (1) is annulled in appeal or any other legal provision, then the assessment or reassessment relating to any assessment year which had abated under the second proviso would stand revived. The proviso thereto says, that such revival shall cease to have effect if such order of annulment is set aside. Thus, any proceeding of assessment or reassessment falling within the, six assessment years prior to the search or requisition stands abated and the total income of the assessee is required to be determined under Section 153-A, of the Act. Similarly, sub-section (2) provides for revival of any assessment or reassessment which stood abated, if any proceeding or any order of assessment or reassessment made under Section 153-A of, the Act is annulled in appeal or any other proceeding.

16. Section 153-A bears the heading “Assessment in case of search or requisition”. It is well settled as held by the Supreme Court in a catena of decisions that the heading of the, section can be regarded as a key to the interpretation, of the operative portion of, the section and if there is no ambiguity in the language or if it is plain and clear, then the heading used in the section strengthens that meaning. From the heading of Section 153, the intention of the legislature is clear viz. to provide for assessment in case of search and requisition. When, the very purpose of the provision is to make assessment in case of search or requisition, it goes without saying that the assessment has



to have relation to the search or requisition. In other words, the assessment, should be connected with something found during the search or requisition viz. incriminating material which reveals undisclosed income. Thus, while in view of the mandate of sub-section (1) of Section 153-A of the Act, in every case where there is a search or requisition, the assessing officer is obliged to issue notice to such person to furnish returns of income for the six years preceding the assessment year relevant to the previous year in which the search is conducted or requisition is made, any addition or disallowance can be made only on the basis of material collected during the search or requisition. In case no incriminating material is found, as held by the Rajasthan High Court in *Jai Steel (India) v. CIT [Jai Steel (India) v. CIT, 2013 SCC OnLine Raj 1939]*, the earlier assessment would have to be reiterated. In case where pending assessments have abated, the assessing officer can pass assessment orders for each of the six years determining the total income of the assessee which would include income declared in the returns, if any, furnished by the assessee as well as undisclosed income, if any, unearthed during the search or requisition. In case where a pending reassessment under Section 147 of the Act has abated, needless to state that the scope and ambit of the assessment would include any order which the assessing officer could have passed under Section 147 of the Act as well as under Section 153-A of the Act.”

28. For the reasons stated hereinbelow, we are in complete agreement with the view taken by the Delhi High Court in *Kabul Chawla [CIT v. Kabul Chawla, 2015 SCC OnLine Del 11555 : (2016) 380 ITR 573]* and the Gujarat High Court in *Saumya Construction (P) [CIT v. Saumya Construction (P) Ltd., 2016 SCC OnLine Guj 9976 : (2016) 387 ITR 529]*, taking the view that no addition can be made in respect of completed assessment in absence of any incriminating material.



30. That prior to insertion of Section 153-A in the statute, the relevant provision for block assessment was under Section 158-BA of the 1961 Act. The erstwhile scheme of block assessment under Section 158-BA envisaged assessment of “undisclosed income” for two reasons, firstly that there were two parallel assessments envisaged under the erstwhile regime i.e. : (i) block assessment under Section 158-BA to assess the “undisclosed income”, and (ii) regular assessment in accordance with the provisions of the Act to make assessment qua income other than undisclosed income. Secondly, that the “undisclosed income” was chargeable to tax at a special rate of 60% under Section 113 whereas income other than “undisclosed income” was required to be assessed under regular assessment procedure and was taxable at normal rate. Therefore, Section 153-A came to be inserted and brought on the statute. Under Section 153-A regime, the intention of the legislation was to do away with the scheme of two parallel assessments and tax the “undisclosed” income too at the normal rate of tax as against any special rate. Thus, after introduction of Section 153-A and in case of search, there shall be block assessment for six years. Search assessments/Block assessments under Section 153-A are triggered by conducting of a valid search under Section 132 of the 1961 Act. The very purpose of search, which is a prerequisite/trigger for invoking the provisions of Sections 153-A/153-C is detection of undisclosed income by undertaking extraordinary power of search and seizure i.e. the income which cannot be detected in ordinary course of regular assessment. Thus, the foundation for making search assessments under Sections 153-A/153-C can be said to be the existence of incriminating material showing undisclosed income detected as a result of search.

34. If the submission on behalf of the Revenue that in case of search even where no incriminating material is found during the course of search, even in case of unabated/completed assessment, the AO can assess or



reassess the income/total income taking into consideration the other material is accepted, in that case, there will be two assessment orders, which shall not be permissible under the law. At the cost of repetition, it is observed that the assessment under Section 153-A of the Act is linked with the search and requisition under Sections 132 and 132-A of the Act. The object of Section 153-A is to bring under tax the undisclosed income which is found during the course of search or pursuant to search or requisition. Therefore, only in a case where the undisclosed income is found on the basis of incriminating material, the AO would assume the jurisdiction to assess or reassess the total income for the entire six years block assessment period even in case of completed/unabated assessment. As per the second proviso to Section 153-A, only pending assessment/reassessment shall stand abated and the AO would assume the jurisdiction with respect to such abated assessments. It does not provide that all completed/unabated assessments shall abate. If the submission on behalf of the Revenue is accepted, in that case, the second proviso to Section 153-A and sub-section (2) of Section 153-A would be redundant and/or re-writing the said provisions, which is not permissible under the law.

35. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in *Kabul Chawla* [*CIT v. Kabul Chawla*, 2015 SCC OnLine Del 11555 : (2016) 380 ITR 573] and the Gujarat High Court in *Saumya Construction* [*CIT v. Saumya Construction (P) Ltd.*, 2016 SCC OnLine Guj 9976 : (2016) 387 ITR 529] and the decisions of the other High Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material.”

12. It is material to note that although the decision in *CIT v. Abhisar Buildwell (P.) Ltd.* (*supra*) was rendered in the context of Section 153A of the Act. The decision would be equally applicable for an assessment under Section 153C of the Act as the Supreme Court had expressly clarified that



foundation for making “search assessments under Section 153A/153C” was the existence of incriminating material showing undisclosed income.

13. We also consider it apposite to refer to the decision in the case of *CIT v. U.K. Paints (Overseas) Ltd.: (2023) 14 SCC 433*, where the Supreme Court had upheld the decision of the High Court to set aside the assessment orders passed under Section 153C of the Act for want of incriminating material. The relevant extract of the said decision is set out below:

“1. In this batch of appeals, the assessments in case of each assessee were under Section 153-C of the Income Tax Act, 1961 (for short “the Act”). As found by the High Court in none of the cases any incriminating material was found during the search either from the assessee or from a third party. In that view of the matter, as such, the assessments under Section 153-C of the Act are rightly set aside [*BJN Holdings Ltd. v. CIT*, (2020) 15 ITR-OL 408 : 2018 SCC OnLine Del 13539] · [*CIT v. Ankush Saluja*, (2019) 419 ITR 431 : 2019 SCC OnLine Del 11148] · [*CIT v. Dhananjay International Ltd.*, 2019 SCC OnLine Bom 13405] · [*CIT v. Best Infrastructure (India) (P) Ltd.*, 2017 SCC OnLine Del 13053] · [*CIT v. Caprihans (India) Ltd.*, 2019 SCC OnLine Bom 13406] · [*ARN Infrastructure (India) Ltd. v. CIT*, (2017) 394 ITR 569 : 2017 SCC OnLine Del 8081] by the High Court. However, Shri N. Venkataraman, learned ASG appearing on behalf of the Revenue, taking the clue from some of the observations made by this Court in the recent decision in *CIT v. Abhisar Buildwell (P) Ltd.* [*CIT v. Abhisar Buildwell (P) Ltd.*, (2024) 2 SCC 433] , more particularly, paras 33 and 35, has prayed to observe that the Revenue may be permitted to initiate reassessment proceedings under Sections 147/148 of the Act as in the aforesaid decision, the powers of the reassessment of the Revenue even in case of the block assessment under Section 153-A of the Act have been saved.



2. 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) [*BJN Holdings Ltd. v. CIT*, (2020) 15 ITR-OL 408 : 2018 SCC OnLine Del 13539] · [*CIT v. Ankush Saluja*, (2019) 419 ITR 431 : 2019 SCC OnLine Del 11148] · [*CIT v. Dhananjay International Ltd.*, 2019 SCC OnLine Bom 13405] · [*CIT v. Best Infrastructure (India) (P) Ltd.*, 2017 SCC OnLine Del 13053] · [*CIT v. Caprihans (India) Ltd.*, 2019 SCC OnLine Bom 13406] · [*ARN Infrastructure (India) Ltd. v. CIT*, (2017) 394 ITR 569 : 2017 SCC OnLine Del 8081] 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.

3. However, so far as the prayer made on behalf of the Revenue to permit them to initiate the reassessment proceedings is concerned, it is observed that it will be open for the Revenue to initiate the reassessment proceedings in accordance with law and if it is permissible under the law.

14. In *CIT v. RRJ Securities Ltd.: (2016) 380 ITR 612*, the Coordinate Bench of this Court of which one of us (Vibhu Bakhru, J.), was a member had emphasized that it would be impermissible for re-assessing the income of the assessee in respect of assessment years for which assessments were concluded in respect of which the seized documents would have no bearing. The relevant extract of the said decision reads as under:

“33. The record slip belongs to the assessee and, therefore, the action of the Assessing Officer of the searched persons recording that the same belongs to the assessee cannot be faulted. However, the question then arises is whether the Assessing Officer of the assessee was justified in taking



further steps for reassessing the income of the assessee in respect of the assessment years for which the assessments were concluded and in respect of which the seized document had no bearing. In our view, the same would be clearly impermissible as the seized material now available with the Assessing Officer, admittedly, had no nexus with those assessments and was wholly irrelevant for the purpose of assessing the income of the assessee for the years in question. Merely because a valuable article or document belonging to an assessee is seized from the possession of a person searched under section 132 of the Act does not mean that the concluded assessments of the assessee are necessarily to be reopened under section 153C of the Act. In our view, the concluded assessments cannot be interfered with mechanically and solely for the reason that a document belonging to the assessee, which has no bearing on the assessments of the assessee for the years preceding the search, was seized from the possession of the searched persons.

36. The decision in SSP Aviation (supra) cannot be understood to mean that the Assessing Officer has the jurisdiction to make a reassessment in every case, where seized assets or documents are handed over to the Assessing Officer. The question whether the documents/assets seized could possibly reflect any undisclosed income has to be considered by the Assessing Officer after examining the seized assets/documents handed over to him. It is only in cases where the seized documents/assets could possibly reflect any undisclosed income of the assessee for the relevant assessment years, that further enquiry would be warranted in respect of those years. Whilst, it is not necessary for the Assessing Officer to be satisfied that the assets/documents seized during search of another person reflect undisclosed income of an assessee before commencing an enquiry under section 153C of the Act, *it would be impermissible for him to commence such enquiry if it is apparent that the documents/assets in question have no bearing on the income*



of the assessee for the relevant assessment years.”

(emphasis added)

15. The controversy involved in the present case is squarely covered by the decision of this Court in ***Saksham Commodities Limited v. Income Tax Officer Ward 22(1), Delhi & Another: Neutral Citation: 2024: DHC:2836-DB***. In that case, the Coordinate Bench of this Court had examined various earlier decisions rendered by this Court and had held that if there was no incriminating material having a bearing on the income of the relevant assessment year, the initiation of the proceedings under Section 153C of the Act in respect of the said assessment year would not be sustainable. We consider it apposite to set out the following extract of the said judgment:

“48. In terms of the Second Proviso to Section 153A, all assessment or reassessment proceedings relating to the six AYs’ or the “*relevant assessment year*” pending on the date of search are statutorily envisaged to abate. Abatement is envisioned to be an inevitable consequence of the initiation of action under Section 153A. Neither issuance of notice nor abatement are predicated upon a formation of opinion by the AO of the searched person that the material is likely to impact the total income of that assessee. However, the spectre of abatement insofar as the “*other person*” is concerned would arise only after the jurisdictional AO has formed the requisite satisfaction of the material having “*a bearing on the determination of the total income of such other person*” and having formed the opinion that proceedings under Section 153C are liable to be initiated. It would be pertinent to bear in mind that *Kabul Chawla* was a decision rendered in the context of Section 153A. It was in the aforesaid backdrop that the Court significantly observed that once a search takes place under Section 132 of the Act, notice under Section 153A(1) would mandatorily issue. The abatement of assessment and



reassessment pending on that date would, in the case of a Section 153A assessment, be a preordained consequence. However, and in light of what has been observed hereinabove, it is apparent that Section 153C constructs a subtle and yet significant distinction insofar as the question of commencement of proceedings or assumption of jurisdiction is concerned.

49. That takes us to the principal question and which pertains to the nature of the incriminating material that may be obtained and the years forming part of the block which would merit being thrown open. Regard must be had to the fact that while Section 153C enables and empowers the jurisdictional AO to commence assessment or reassessment for a block of six AYs' or the "*relevant assessment year*", that action is founded on satisfaction being reached that the books of accounts, documents or assets seized "*have a bearing on the determination of the total income of such other person*". We in this regard bear in mind the well settled distinction which the law recognizes between the existence of power and the exercise thereof. Section 153C enables and empowers the jurisdictional AO to assess or reassess the six AYs' or the "*relevant assessment year*". The Act thus sanctions and confers an authority upon the AO to exercise the power placed in its hands for up to a maximum of ten AYs'. Despite the conferral of that power, the question which would remain is whether the facts and circumstances of a particular case warrant or justify the invocation of that power. It is the aforesaid aspect which bids us to reiterate the distinction between the existence and exercise of power.

50. What we seek to emphasise is that merely because Section 153C confers jurisdiction upon the AO to commence an exercise of assessment or reassessment for the block of years which are mentioned in that provision, the same alone would not be sufficient to justify steps in that direction being taken, unless the incriminating material so found is likely to have an impact on the total income of a particular AY forming part of the six AYs' immediately preceding the AY pertaining to the



search year or for the “*relevant assessment year*”.

51. Ultimately Section 153C is concerned with books, documents or articles seized in the course of a search and which are found to have the potential to impact or have a bearing on an assessment which may be undergoing or which may have been completed. The words “*have a bearing on the determination of the total income of such other person*” as appearing in Section 153C would necessarily have to be conferred pre-eminence. Therefore, and unless the AO is satisfied that the material gathered could potentially impact the determination of total income, it would be unjustified in mechanically reopening or assessing all over again all the ten AYs’ that could possibly form part of the block of ten years.

52. The decisions which hold that an assessment is liable to be revised only if incriminating material be found, even if rendered in the context of Section 153A, would clearly govern the question that stands posited even in the context of Section 153C. It would be relevant to recall that the Division Bench in *Kabul Chawla* had observed that in the absence of any incriminating material, a completed assessment may be reiterated and the abated assessment or reassessment be concluded. The importance of incriminating material was further underlined in *Kabul Chawla* with the Court observing that completed assessments could be interfered with, only if some incriminating material were unearthed. This aspect came to be reiterated in *RRJ Securities* when the Court held that it would be impermissible to either reopen or reassess a completed assessment which may not be impacted by the material gathered in the course of the search and which may have no plausible nexus. The aforesaid position also comes to the fore when one reads para 17 of *ARN Infrastructure* and which annulled an action aimed at reopening assessments for years to which the incriminating document which was found did not relate.

53. *Sinhgad Technical Education Society* also constitutes a binding precedent in respect of the aforesaid proposition as



would be evident from the Supreme Court noticing that the material disclosed pertained only to AY 2004-05 or thereafter and that consequently the Section 153C action initiated for AYs' 2000-01 to 2003-04 would not sustain. It was this position in law as enunciated in that decision which came to be reiterated by our Court in *Index Securities*.

54. In any case, *Abhisar Buildwell*, in our considered opinion, is a decision which conclusively lays to rest any doubt that could have been possibly harboured. The Supreme Court in unequivocal terms held that absent incriminating material, the AO would not be justified in seeking to assess or reassess completed assessments. Though the aforesaid observations were rendered in the context of completed assessments, the same position would prevail when it comes to assessments which abate pursuant to the issuance of a notice under Section 153C. Here too, the AO would have to firstly identify the AYs' to which the material gathered in the course of the search may relate and consequently it would only be those assessments which would face the spectre of abatement. The additions here too would have to be based on material that may have been unearthed in the course of the search or on the basis of material requisitioned. The statute thus creates a persistent and enduring connect between the material discovered and the assessment that may be ultimately made. The provision while speaking of AYs' falling within the block of six AYs' or for that matter all years forming part of the block of ten AYs', appears to have been put in place to cover all possible contingencies. The aforesaid provisions clearly appear to have been incorporated and made applicable both with respect to Section 153A as well as Section 153C *ex abundanti cautela*. Which however takes us back to what had been observed earlier, namely, the existence of the power being merely enabling as opposed to a statutory compulsion or an inevitable consequence which was advocated by the respondents.

55. Take for instance a case where the material gathered in the search is contemplated to have an adverse impact on the declarations and disclosures made by an assessee pertaining



only to AYs' 2016-17 and 2017-18. What we seek to emphasise is that pending assessments for those two years could validly form subject matter of action under Section 153C and pending assessments in that respect would surely abate. However, that by itself would not be sufficient to either reopen or issue notices in respect of AYs' prior to or those falling after those two AYs' and which may otherwise fall within the maximum block period of ten years merely because the statute empowers the AO to do so. Unless the material gathered and recovered is found to have relevancy to the AY which is sought to be subjected to action under Section 153C, it would be legally impermissible for the respondents to invoke those provisions. Consequently, the AO would be bound to ascertain and identify the year to which the material recovered relates. The years which could be then subjected to action under Section 153C would have to necessarily be those in respect of which the assessment is likely to be influenced or impacted by the material discovered. Section 153C neither mandates nor envisages a mechanical or an *en blanc* exercise of power, or to put it differently, one which is uninformed by a consideration of the factors indicated above.

56. We also bear in mind the pertinent observations made in *RRJ Securities* when the Court held that merely because an article or thing may have been recovered in the course of a search would not mean that concluded assessments have to “*necessarily*” be reopened under Section 153C and that those assessments are not liable to be revised unless the material obtained have a bearing on the determination of the total income. This aspect was again emphasised in para 38 of *RRJ Securities* with the Court laying stress on the existence of material that may be reflective of undisclosed income being of vital importance. All the aforementioned judgments thus reinforce the requirement of incriminating material having an ineradicable link to the estimation of income for a particular AY.

57. It becomes pertinent to note that both Sections 153A and 153C require the assessee upon being placed on notice to



furnish ROIs’ for the six AYs’ or the “*relevant assessment year*”. All that the two provisions mandate is that notwithstanding the submission of those ROIs’, the AO would frame one assessment order in respect of each of the years which were made subject matter of the notice and which would deal with both disclosed and undisclosed income. This too reinforces our view that Section 153C would apply only to such AYs’ where the jurisdictional AO is satisfied and has incriminating material for those AYs’ and which may be concerned with disclosed and undisclosed income.

58. The aforesaid position stands further fortified from a reading of the First Proviso to Section 153A and which speaks of the power of the AO to assess or reassess the total income in respect of “*each assessment year*”. The aforesaid phraseology stands replicated in Section 153B(1)(a) which again alludes to “*each assessment year*” falling within the six AYs or the “*relevant assessment year*”. The aforesaid language is then reiterated in Section 153D and which prescribes that no order of assessment or reassessment shall be passed by an AO in respect of “*each assessment year*” referred to in Section 153A or 153B of the Act, except with the prior approval of the Joint Commissioner. We note that once the aforesaid principles are borne in mind, there would exist no discernible distinction between abated and completed assessments. This, since in both situations, the AO would be bound to base its decision to abate or reopen on material that is likely to impact the assessment of the total income for a particular AY. In case of assessment proceedings which are ongoing on the date when the AO proceeds to draw its satisfaction and in respect of which no incriminating material has been discovered, there would exist no justification to initiate proceedings under Section 153C.

59. It would be pertinent to recall that Section 153C essentially seeks to merge ongoing assessments with a search assessment which may be triggered by the discovery of material obtained in a search and which was the statutory procedure which prevailed in terms of the provisions contained in Chapter XIV B. However, and in cases where on facts it is found that the



material gathered is unlikely to have any impact on the computation of total income for a particular year, there would exist no justification to invoke the powers conferred by Section 153C.

60. Before concluding, we also deem it imperative to briefly notice certain aspects which emerge from a reading of the Satisfaction Notes themselves. As is manifest from a reading of the Satisfaction Note drawn by the jurisdictional AO of the assessee in W.P. (C) 1459/2024, after noticing the material which was recovered during the search and related to FYs' 2009-10, 2010-11 and 2011-12 [corresponding AYs' thus being AYs' 2010-11, 2011-12 and 2012-13], it has proceeded to observe that the assessments which were liable to abate or be reopened would be AYs' 2010-11 to 2020-21. A similar note appears in W.P. (C)1117/2024. Here again, after referring to the material pertaining to FY 2009-10 [and thus relating to AY 2010-11], the AO proceeded to seek approval for initiating action under Section 153C in respect of AYs' 2010-11 up to 2020-21.

61. A reading of the aforesaid Satisfaction Notes would establish that jurisdictional AOs' appear to have proceeded on the premise that the moment incriminating material is unearthed in respect of a particular AY, they would have the jurisdiction and authority to invoke Section 153C in respect of all the assessment years which could otherwise form part of the "*relevant assessment year*" as defined in Section 153A. In our considered opinion, the aforesaid understanding of Section 153C is clearly erroneous and unsustainable. As explained hereinabove, the discovery of material likely to implicate the assessee and impact the assessment of total income for a particular AY is not intended to set off a chain reaction or have a waterfall effect on all AYs' which could form part of the "*relevant assessment year*". This, more so since none of the Satisfaction Notes record any reasons of how that material is likely to materially influence the computation of income for those AYs'.



62. Hypothetically speaking, it may be possible for the material recovered in the course of a search having the potential or the probability of constituting incriminating material for more than one assessment year. However, even if such a situation were assumed to arise, it would be incumbent upon the AO to duly record reasons in support of such a conclusion. The Satisfaction Notes would thus have to evidence a formation of opinion that the material is likely to be incriminating for more than a singular assessment year and thus warranting the drawl of Section 153C proceedings for years in addition to those to which the material may be directly relatable.”

16. It is apparent that the documents seized do not constitute any material or contain any information that has any bearing on the income of the Assessee for the relevant assessment year. The impugned notices are, thus, unsustainable.

17. The learned counsel appearing for the Revenue referred to Section 153C of the Act and earnestly submitted that there was no requirement under Section 153C of the Act that the information contained in the books of accounts or documents seized or requisitioned has a bearing on the determination of the total income of the assessee if such information relates to the assessee. He contended that Section 153C of the Act has three distinctive limbs. The first is triggered when the AO is satisfied that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned belongs to the Assessee being a person other than the searched person. The second limb is triggered if the books of accounts or documents seized or requisitioned pertains to the assessee (being a person other than the searched person). And, the third is triggered if the books or documents seized or requisitioned contain information which relates to the assessee



being a person other than the searched person. He submitted that the third limb is not qualified with the condition that it must have a bearing on the income of the non-searched person. He contended that therefore, there was no requirement that the information contained in the seized material which relates to a non-searched person should have a bearing on his income for the AO to assume the jurisdiction under Section 153C of the Act.

18. It is relevant to refer to Sub-section (1) of Section 153C of the Act. The same is set out below:

“153C. Assessment of income of any other person.

(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous



year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in sub-section (1) of section 153A :

Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to sub-section (1) of section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person:

Provided further that the Central Government may by rules 30 made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years as referred to in sub-section (1) of section 153A except in cases where any assessment or reassessment has abated.”

[Emphasis added]

19. It is clear from the plain reading of the language that the notice under Section 153C of the Act can be issued only if the AO is “satisfied that the books or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person”. The contention that the AO is not required to be satisfied that the information contained in books or account or document seized or requisitioned has a bearing on the income of the Assessee (the Assessee being the person other than the searched person) if the information relates to the such person, is insubstantial. The



said contention was contrary to the plain language of Section 153C(1) of the Act.

20. In view of above, the impugned notice(s) are set aside.

21. The petitions are allowed in the aforesaid terms. The pending applications are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

JULY 14, 2025
m/‘gsr’/RK