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

% *Date of Decision: 21.04.2025*

+ ITA 99/2025

THE PR. COMMISSIONER OF INCOME
TAX -CENTRAL -1, JHANDEWALAN EXTENSION,
NEW DELHIAppellant

Through: Mr Ruchir Bhatia, SSC, Mr Anant
Mann, JSC Ms Aditi Sabharwal and
Mr Abhishek Anand, Advocates.

versus

AMOL AWASTHI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **21.04.2025**

VIBHU BAKHRU, J.

CM APPL. 22906/2025 (condonation of delay)

1. For the reasons stated in the application, the delay of 37 days in filing the captioned appeal is condoned.
2. The application stands disposed of.

ITA 99/2025

3. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning an order dated 13.09.2024 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.1342/Del/2024 [**the impugned order**]. The impugned order was a



common order passed in the batch of appeals (seven in number) preferred by the Assessee impugning the final assessment orders passed under Section 144C and 153C read with Section 143(3) of the Act, pursuant to the directions issued by the learned Dispute Resolution Panel [**DRP**].

4. The present appeal relates to the learned ITAT's order insofar, as it pertains to the Assessee's appeal in respect of assessment year [**AY**] 2011-12 [**ITA No.1342/Del/2024**], which was allowed by the learned ITAT.

5. The Revenue has projected the following questions for consideration of this Court:

“2.1 Whether on the facts and circumstances of the case and in law, the Ld. ITAT has erred in holding that block periods for assessment u/s 153C of the Income-tax Act, 1961, by calculating the same from the date of receipt of the books of accounts, documents or assets seized, by the jurisdictional AO of the non-searched person and not from the date of initiation of search by relying on First Proviso to Section 153C, even when this Proviso specifically deals only with the abatement of proceedings (as referred to second proviso of Section 153A) and does not deal with the calculation of block periods?

2.2 Whether on the facts and circumstances of the case and in law, the Ld. ITAT has erred in holding that block periods for assessment u/s 153C of the Income-tax Act, 1961, have to be calculated from the date of receipt of the books of accounts, documents or assets seized, by the jurisdictional AO of the non-searched person, even when the position of law is clarified after the amendment introduced by Finance Act, 2017, that the block period of 6AYs and 10 AYs as mentioned in Section 153C and Section 153A have same meaning



and have to be calculated from the “assessment year relevant to the previous year in which search is conducted”.

- 2.3 Whether on the facts and circumstances of the case and in law, the Ld. ITAT has erred in quashing the impugned notices dated 29.09.2021 issued under Section 153C of the Act and all consequential proceedings arising therefrom by holding that block periods for assessment u/s 153C of the Income-tax Act, 1961, have to be calculated from the date of receipt of the books of accounts, documents or assets seized, by the jurisdictional AO of the non-searched person and not from the date of initiation of search by relying on First Proviso to Section 153C, even when this Proviso specifically deals only with the abatement of proceedings (as referred to second proviso of Section 153A) and does not deal with the calculation of block periods?
- 2.4 Whether on the facts and circumstances of the case and in law, the Ld. ITAT has erred on facts and in law by holding that the assumption of jurisdiction under Section 153C of the Act in the case of assessee is invalid?
- 2.5 Whether on the facts and circumstances of the case and in law, the Ld. ITAT has erred on the facts and in law in deleting the protective addition of Rs. 14,13,42,100/- u/s 69A of the Act on account of unexplained money?
- 2.6 Whether on facts and circumstances of the case, the Ld. ITAT is correct in deciding the issue in favour of assessee on the ground cross examination of Sh. Rajeev Saxena was not given to the assessee, despite the fact that the cross examination of Sh. Rajeev Saxena could not be done during the assessment proceedings in spite of due efforts made by the



Assessing Officer to provide opportunity to cross examine. The assessment order is based on the seized material and statement was only supporting evidence?

- 2.7 Whether on facts and circumstances of the case, the Ld. ITAT erred in holding that there was no information on record which could show any link of the assessee is entities named by Sh. Rajeev Saxena, despite the fact that there is information on record to show that the assessee has had relations with ASMEA and AMEA group of entities named by Sh. Rajeev Saxena?
- 2.8 Whether on facts and circumstances of the case, the Ld. ITAT was correct in holding that the Assessing Officer that the information pertained to the assessee and therefore protective addition was made despite the fact that reasons for making protective addition in the hands of the assessee in order to safeguard the interest of revenue elaborated in the assessment order?
- 2.9 Whether on facts and circumstances of the case, the Ld. ITAT was correct in holding that the assessment order under section 153C without making reference to section 153A is invalid. This is a hyper technical interpretation without appreciating that the provisions of Section 153C and 153A be read co-jointly. No prejudice whatsoever is caused to the seven if the Assessment order does not mention the term “read with section 153A of the Act?”
- 2.10 Whether on the facts and in the circumstances of the case, the order passed by the Ld. ITAT is perverse in law as well as fact in respect of the items referred to in the question herein above?”
6. The Assessee filed his return of income for AY 2011-12 on 16.03.2012 declaring an income of ₹10,13,720/-, which was processed under Section 143(1) of the Act. On 30.06.2019, a search was conducted in the



case of one Sh. Sanjay Jain. The Assessee was also considered one of the searched persons and accordingly, a notice under Section 153A of the Act was issued. While the proceedings pursuant to the notice issued under Section 153A were pending, the Assessing Officer [AO] exercising jurisdiction in case of the Assessee received information that a search had been conducted on 30.06.2019 under Section 132 of the Act in the case relating to one Sh. Rajiv Saxena. The AO exercising jurisdiction in the case of the searched person (Sh. Rajiv Saxena), recorded a satisfaction note stating that the documents or material unearthed during the said search belonged to the Assessee or contained information pertaining to the Assessee.

7. In view of the above, the AO dropped the proceedings initiated against the Assessee under Section 153A of the Act under the process of initiating fresh proceedings under Section 153C of the Act. However, in the meanwhile, searches were also conducted on 18.10.2019 in cases relating to Alankit Group. The AO exercising jurisdiction in respect of such searched person also recorded his satisfaction that the materials found during the search belonged to or contained information pertaining to the Assessee.

8. In view of the above, the AO issued the notice dated 29.09.2021 under Section 153C of the Act requiring the Assessee to file his return of income for the relevant assessment year.

9. The said proceedings culminated in the draft assessment order dated 31.03.2023 making certain additions on protective basis.

10. Being aggrieved by the draft assessment order, the Assessee filed his



objections before the learned DRP. The learned DRP, by an order dated 28.12.2023, rejected the objections raised by the Assessee and upheld the view taken by the AO in the draft assessment order.

11. Pursuant to the directions issued by the learned DRP, the AO passed a final assessment order dated 30.01.2024 under Sections 144C and 153C read with Section 143(3) of the Act.

12. The Assessee appealed the said assessment order before the learned ITAT, which was allowed. The learned ITAT, following the decision of this Court in *The Pr. Commissioner of Income Tax - Central-1 v. Ojjus Medicare Pvt. Ltd.: Neutral Citation No.: 2024:DHC:2629-DB* held that AY 2011-12 falls outside the block of ten assessment years, which could be reopened pursuant to a notice issued under Section 153C of the Act. Concededly, in terms of the said decision, the block of ten years for which assessments could be reopened is required to be construed from the end of the assessment year relevant to the financial year in which the satisfaction note under Section 153C of the Act was recorded by the AO. As noted above, in the present case, the AO had recorded its satisfaction note under Section 153C of the Act on 29.09.2021 and therefore, the period of ten years for which the assessments could be reopened under Section 153C of the Act read with Section 153A of the Act are required to be reckoned from the end of the AY 2022-23.

13. Concededly, AY 2011-12 falls beyond the block of ten years that are required to be reckoned from the end of the AY 2022-23.

14. In the given facts, we find no infirmity with the view of the learned



ITAT in finding that the AO's assumption of jurisdiction under Section 153C of the Act in respect of AY 2011-12 is invalid.

15. In view of the above, it is not necessary to address any of the questions as projected by the Revenue. No substantial question of law arises for consideration of this Court.

16. The appeal is, accordingly, dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 21, 2025
RK/KS

Click here to check corrigendum, if any