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

% *Date of Decision: 29.04.2024*

+ **W.P.(C) 4622/2021**

R.C. JEWELLERS PVT.LTD.

....Petitioner

Through: Mr Salil Kapoor, Mr Sumit Lalchandani, Ms Ananya Kapoor and Mr Tarun Chanana, Advocates.

Versus

DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 32, DELHI

....Respondent

Through: Mr Abhishek Maratha, senior standing counsel with Mr Apoorv Agarwal, Mr Parth Samwal, Ms Nipur Sharma, Mr Gaurav Singh, Mr Bhanukaran Singh Jodha, Mr Himanshu Guar and Ms Muskaan Goel, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition, *inter alia*, impugning the separate notices dated 26.12.2019 [**impugned notices**] issued under Section 153C of the Income Tax Act, 1961 [**the Act**] in respect of Assessment Years [**AYs**] 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18. The petitioner also impugns an order dated 17.03.2021 [**impugned order**] passed by the Assessing Officer [**AO**] disposing of the petitioner's objections and prays that the respondent be restrained from proceeding further pursuant to the aforesaid impugned notices.



2. The petitioner seeks to impugn the notices, *inter alia*, on the ground that no incriminating material was found pursuant to the search conducted under Section 132 of the Act or a requisition made under Section 132A of the Act in respect of any other person (other than the petitioner) which would have a bearing on the income of the petitioner. The petitioner also contends that the impugned notices have been issued beyond the period of limitation.

3. The relevant facts necessary to address the aforesaid challenge are set out below: -

3.1 On 27.10.2017, the Inspector of the Air Intelligence Unit (AIU) who was on duty at Rajkot Airport noted that one Sh. Suresh Kumar from a courier agency named Jay Mata Di Air Service and one Sh. Jagdish Prasad from the courier agency named Bright Courier had come to take delivery of three and two parcels respectively which had arrived through Jet Airways from Hyderabad and Delhi. The AIU was suspicious of the said two persons and their activities and therefore called upon the Central Industrial Security Forces [CISF] personnel who were on duty to enquire into the matter. On enquiries made by them, they accepted that the said parcels contained gold bullion and jewellery. In the aforesaid background enquiries were conducted by the AIU, Rajkot regarding ownership of the parcels and the aforesaid two persons were called upon to produce the relevant documents to establish the ownership of the intercepted consignment. It is alleged that the said persons could not produce the relevant documents despite opportunity. The three of the parcels were opened and it was found that it contained thirty-one numbers of small parcels and certain papers regarding the booking of the



consignment. Out of the said thirty-one parcels, two parcels contained bills and therefore, no questions were raised regarding the said parcels. Further enquiry was conducted in respect of the remaining parcels and notices under Section 131 of the Act were issued to the aforesaid two individuals. Statements were also recorded under Section 131(1)(a) of the Act. The said proceedings were converted into a search under Section 132 of the Act on the warrant of authorization being received from the concerned authorities. During the search, the statement of Sh. Suresh Kumar Jaikishan Bangarwa was recorded under Section 132(4) of the Act. During the search proceedings a parcel (parcel no.J-9) containing Fine Gold weighing 49 gms. valued at ₹1,32,288/- was seized. It was found that the said parcel was sent by the petitioner (R.C. Jewellers Pvt. Ltd., New Delhi) to Sh. Rajesh Kumar Mohan Lal for job work. The relevant details of the parcel are set out below:

“Name and Address of the sender (A)	PAN of sender	Name and Address of the receiver (B)	Weight (in grams)	Value (In Rs.)
R.C.Jewellers Pvt. Ltd., Karol Bagh Stock 2719 Bank Street Karol Bagh New Delhi GSTIN: 07AACCR7113 A	AACCR7113 A	Rajesh Kumar Mohanlal 13, Sakar Complex, Dera Street, Soni Bazar, Rajkot-360001 GSTIN: 24AFUPS1279N1 2J	49	132288/”

3.2 Thereafter, the AO having jurisdiction over the petitioner recorded a satisfaction note dated 26.12.2019 recording that it was a fit case for initiation of proceedings under Section 153C of the Act as gold weighing 49 gms., valued at ₹1,32,288/-, which was seized from a searched person [Sh.



Suresh Kumar Jaikishan Bangarwa / Sh. Jagdish Prasad] belonged to the petitioner.

3.3. The petitioner does not dispute that it had dispatched the parcel containing 49 gms. of gold to Rajesh Kumar Mohan Lal for job work. The petitioner also claims that the same is duly reflected in its books. In view of the explanation, the fact that a parcel containing 49 gms. of gold was said by the petitioner could not be considered as incriminating material for reopening the concluded assessments.

3.4 Further, the seizure of the parcel could not be considered as incriminating material having any bearing on the income of the petitioner in previous years relating to AYs 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 and 2017-2018. Further the AO having jurisdiction in case of the petitioner had not recorded any satisfaction to the said effect.

4. A plain reading of the satisfaction note dated 03.09.2019 indicates that the AO did not record any finding to the effect that the material handed over had bearing on the income of the petitioner for AYs 2012-13 to 2017-18. Concededly, absent any incriminating material for the relevant assessment years, the proceedings under Section 153C of the Act could not be initiated for the said years.

5. The aforesaid issue is covered by the decision of this court in *Saksham Commodities Ltd. v. Income Tax Officer: [2024] 161 taxmann.com 485 (Delhi)* and the decision of the Supreme Court in *Commissioner of Income Tax-III, Pune v. Sinhgad Technical Education Society: [2017] 8 S.C.R. 463* as well as the decision in the case of *Deputy Commissioner of Income Tax Central Circle 20 v. M/s U.K. Paints*



(Overseas) Ltd.: Civil Appeal No.6634/2021, decided on 25.04.2023.

6. In view of the above, the impugned notices and the impugned order are set aside. All proceedings initiated by the AO pursuant to the said notices are also set aside.
7. The pending applications are also disposed of.
8. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 29, 2025

RK/gsr

Click here to check corrigendum, if any