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

+ **ITA 82/2016**

THE PRINCIPAL COMMISSIONER OF INCOME
TAX CENTRAL CIRCLE-II

..... Appellant

Through: Mr. Dileep Shivpuri, Mr. Sanjay Kumar
and Mr. Vikrant A. Moheshwari, Advs.

versus

SATKAR FINCAP LTD. Respondent

Through: Mr. Kapil Goel and Mr. Mukul Gupta,
Advs.

+ **ITA 83/2016**

THE PRINCIPAL COMMISSIONER OF INCOME
TAX CENTRAL CIRCLE -II

..... Appellant

Through: Mr. Dileep Shivpuri, Mr. Sanjay Kumar
and Mr. Vikrant A. Moheshwari, Advs.

versus

SATKAR FINCAP LTD. Respondent

Through: Mr. Kapil Goel and Mr. Mukul Gupta,
Advs.

+ **ITA 84/2016**

PRINCIPAL COMMISSIONER OF INCOME -TAX
CENTRAL CIRCLE -II

..... Appellant

Through: Mr. Dileep Shivpuri, Mr. Sanjay Kumar
and Mr. Vikrant A. Moheshwari, Advs.

versus

SATKAR FINCAP LTD. Respondent

Through: Mr. Kapil Goel and Mr. Mukul Gupta,
Advs.

+ **ITA 85/2016**

THE PRINCIPAL COMMISSIONER OF INCOME TAX

(0)

CENTRAL CIRCLE -II Appellant
Through: Mr. Dileep Shivpuri, Mr. Sanjay Kumar
and Mr. Vikrant A. Moheshwari, Advs.

versus

SATKAR FINCAP LTD. Respondent
Through: Mr. Kapil Goel and Mr. Mukul Gupta,
Advs.

+ **ITA 86/2016**

THE PRINCIPAL COMMISSIONER OF INCOME
TAX CENTRAL CIRCLE-II Appellant
Through: Mr. Dileep Shivpuri, Mr. Sanjay Kumar
and Mr. Vikrant A. Moheshwari, Advs.

versus

SATKAR FINCAP LTD. Respondent
Through: Mr. Kapil Goel and Mr. Mukul Gupta,
Advs.

+ **ITA 87/2016**

THE PRINCIPAL COMMISSIONER OF INCOME TAX-
CENTRAL CIRCLE-II Appellant
Through: Mr. Dileep Shivpuri, Mr. Sanjay Kumar
and Mr. Vikrant A. Moheshwari, Advs.

versus

M/S SATKAR FINCAP LTD. Respondent
Through: Mr. Kapil Goel and Mr. Mukul Gupta,
Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **16.11.2016**

1. The question of law urged in these appeals is:

Whether in the facts and circumstances of the case, the

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ITAT fell into error in holding that the satisfaction recorded by the AO of the respondent, was not in accordance with Section 153C of the Income Tax Act, 1961.

2. The search and seizure proceedings were conducted in the premises of M/s Madhusudan Buildcon P. Ltd. and few other parties. In the course of the search, materials were seized. The Assessing Officer ('AO') of the searched persons, coincidentally, also happens to be the AO of the present assessee. On 08.09.2010 the AO made the following noting:

"Satisfaction Note for issuing Notice u/s 153C of the I.T. Act, 1961 in the case of M/s. Satkar Fincap Ld. C-I05, Ramdutt Enclave, Uttam Nagar, New Delhi, PAN : AAJCS6828A for A.Y. 2003-04 to 2008-09.

08.09.2010: *In the case of Sh. B.K. Dhingra, Smt. Poonam Dhingra, M/s Madhusudan Buildcon Pvt. Ltd., M/s. Mayank Traders Pvt. Ltd., M/s. Horizon Pvt. Ltd., search & seizure took place u/s 132 on 20.10.2008. The undersigned is the jurisdictional AO of these cases. During the course of search & seizure documents/ papers page 1 to 31 of Annexure A-28 seized by Party R-2, Annexures A-56, A-57 and A-58 seized by party 04 are found to belong to of M/s Satkar Fincap Ld., C-I05, Ramdutt Enclave, Uttam Nagar, New Delhi. I have examined the above mentioned documents/papers and provision of section 153C is invokeable in this case. As the undersigned is also the jurisdictional AO of M/s. Satkar Fincap Ld., C-I05, Ramdutt Enclave, Uttam Nagar, New Delhi, this*

satisfaction note is recorded and is placed in the file before issuing notice U/S 153C.

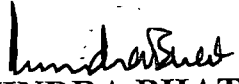
*Sd/-
ACIT, Central Circle - 17,
New Delhi"*

3. On the basis of the above note this 153C notice was issued on the same day to the assessee and, subsequently, assessment was concluded on 31.12.2010. The assessee's appeal was rejected. The contention that no satisfaction was recorded too was turned down by the Commissioner of Income Tax (Appeals). The assessee's further appeals to the Income Tax Appellate Tribunal ('ITAT') succeeded. The ITAT quashed the assessment order on the ground that there was no proper recording of satisfaction by the AO to issue notice under Section 153A, that proceedings under Section 153C were to be undertaken or drawn up.
4. This Court has considered this submission. During the course of the hearing it was suggested to the respondent/ assessee through its counsel that having regard to the categorical statement in the note that: *"During the course of search & seizure documents/ papers page 1 to 31 of Annexure A-28 seized by Party R-2, Annexures A-56, A-57 and A-58 seized by party 04 are found to belong to of M/s Satkar Fincap Ltd., C-I05, Ramdutt Enclave, Uttam Nagar, New Delhi. I have examined the above mentioned documents/papers and provision of section 153C is invokeable in this case"*, the ITAT's findings and conclusion cannot be sustained.
5. The learned counsel for the assessee had sought instructions

and thereafter submitted that having regard to these facts the ITAT's findings with respect to no proper recording of satisfaction under Section 153C of the Act may be set aside and the matter be remitted for consideration on the merits of the assessee's appeal.

6. We, accordingly, set aside the ITAT's findings with regard to absence of any satisfaction under Section 153C and as a consequence remit the appeals for consideration by the ITAT on merits. All rights and contentions of the parties are kept open. Nothing stated in the present order shall be concluded as a binding expression on the merits of the case.

7. The appeals are allowed in the above terms.


S. RAVINDRA BHAT, J


NAJMI WAZIRI, J

NOVEMBER 16, 2016/kk