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

+ **W.P.(C) 2021/2024 & CM APPL. 8494/2024**

OM TRANS LOGISTICS LTD

..... Petitioner

Through: Mr. Manas Shankar Ray,
Mr. Shouryendu Ray, Ms. Neelu
Mohan, Mr. Anshul Gondale,
and Mr. Anmol Jagga, Advs.

versus

**THE ASSISTANT COMMISSIONER OF INCOME TAX,
CIRCLE 19(1) DELHI & ANR.**

..... Respondent

Through: Mr. Ruchir Bhatia, Sr. SC with
Ms. Deeksha Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR
KAURAV**

ORDER

03.04.2024

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1. Bearing in mind the undisputed fact that the impugned notice under Section 153C of the Income Tax Act, 1961 ["Act"] is dated 31 March 2023, it is ex facie evident that it would fall beyond the maximum window of 10 years as prescribed. The issue in any case stands answered and covered in favour of the writ petitioner in light of the judgment rendered today in W.P.(C) 3907/2023. The relevant paragraphs of the aforesaid decision reads as under:-

"B. Both Sections 153A and 153C embody non-obstante clauses and are in express terms ordained to override Sections 139, 147 to 149, 151 and 153 of the Act. By virtue of the 2017 Amending Act, significant amendments came to be introduced in Section 153A. These included, inter alia, the search assessment block being enlarged to ten AYs' consequent to the addition of the stipulation of "relevant assessment year" and which was defined to mean those years which would fall beyond the six year block period but not



later than ten AYs'. The block period for search assessment thus came to be enlarged to stretch up to ten AYs'. The 2017 Amending Act also put in place certain prerequisite conditions which would have to inevitably be shown to be satisfied before the search assessment could stretch to the "relevant assessment year". The preconditions include the prescription of income having escaped assessment and represented in the form of an asset amounting to or "likely to amount to" INR 50 lakhs or more in the "relevant assessment year" or in aggregate in the "relevant assessment years".

C. Section 153C, on the other hand, pertains to the non-searched entity and in respect of whom any material, books of accounts or documents may have been seized and were found to belong to or pertain to a person other than the searched person. As in the case of Section 153A, Section 153C was also to apply to all searches that may have been undertaken between the period 01 June 2003 to 31 March 2021. In terms of that provision, the AO stands similarly empowered to undertake and initiate an assessment in respect of a non-searched entity for the six AYs' as well as for "the relevant assessment year". The AYs', which would consequently be thrown open for assessment or reassessment under Section 153C follows lines *pari materia* with Section 153A.

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 nonsearched 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."

2. Accordingly and for reasons assigned in our decision in **Vineeta Gupta v. Income Tax Officer Ward 46(4) Delhi and Anr** [W.P.(C) 3907/2023] we allow the instant writ petition and quash the impugned notice under Section 153C of the Act dated 31 March 2023, in so far as it pertains to Assessment Year 2010-2011.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 03, 2024/MJ