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

+ W.P.(C) 4353/2024 & CM APPL. 17856/2024 (Stay)

SSHUBH AARAMBH PROPDEAL PRIVATE
LIMITED

.....Petitioner

Through: None.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Abhishek Maratha, Sr. SC
alongwith Ms. Nupur Sharma,
Mr. Parth Semwal, Jr. SCs.
With Mr. Manav Goyal, Mr.
Gaurav Singh and Mr.
Bhanukaran Singh Jodha,
Advocates for Respondent Nos.
2 to 4.

64

+ W.P.(C) 4358/2024 & CM APPL. 17864/2024 (Stay)

SSHUBH AARAMBH PROPDEAL PRIVATE
LIMITED

.....Petitioner

Through: None.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Abhishek Maratha, Sr. SC
alongwith Ms. Nupur Sharma,
Mr. Parth Semwal, Jr. SCs.
With Mr. Manav Goyal, Mr.
Gaurav Singh and Mr.
Bhanukaran Singh Jodha,
Advocates for Respondent Nos.
2 to 4.

65

+ W.P.(C) 4360/2024 & CM APPL. 17870/2024 (Stay)



SSHUBH AARAMBH PROPDEAL PRIVATE
LIMITED

.....Petitioner

Through: None.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Abhishek Maratha, Sr. SC
alongwith Ms. Nupur Sharma,
Mr. Parth Semwal, Jr. SCs.
With Mr. Manav Goyal, Mr.
Gaurav Singh and Mr.
Bhanukaran Singh Jodha,
Advocates for Respondent Nos.
2 to 4.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

23.09.2024

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1. These writ petitions have been preferred against the impugned notices dated 25 January 2024 issued under Section 153C of the **Income Tax Act, 1961**¹ for **Assessment Years**² 2018-19 [W.P.(C) 4353/2024], 2019-20 [W.P.(C) 4358/2024] and 2020-21 [W.P.(C) 4360/2024] and all consequential proceedings.

2. Bearing in mind the undisputed fact that the Satisfaction Note dated 05 April 2022 of the searched person relates to incriminating material for AYs' 2015-16, 2016-17 and 2017-18, it is ex facie evident that no incriminating material for AYs' 2018-19, 2019-20 and 2020-21 has been found. The **Assessing Officer**³ of the searched person also fails to record any reasons which may have indicated how the

¹ Act

² AYs'

³ AO



said material could “have a bearing on the determination of the total income of such other person” for the years in question.

3. Undisputedly, the issue now stands answered and covered in favour of the writ petitioner bearing in mind the principles that we had enunciated in **Saksham Commodities Limited vs. Income Tax Officer, Ward 22(1), Delhi & Anr**⁴. The relevant paragraphs of the said decision read as follows:-

“**63.** On an overall consideration of the structure of Sections 153A and 153C, we thus find that a reopening or abatement would be triggered only upon the discovery of material which is likely to “*have a bearing on the determination of the total income*” and would have to be examined bearing in mind the AYs' which are likely to be impacted. It would thus be incorrect to either interpret or construe Section 153C as envisaging incriminating material pertaining to a particular AY having a cascading effect and which would warrant a mechanical and inevitable assessment or reassessment for the entire block of the “relevant assessment year”.

64. In our considered view, abatement of the six AYs' or the “*relevant assessment year*” under Section 153C would follow the formation of opinion and satisfaction being reached that the material received is likely to impact the computation of income for a particular AY or AYs' that may form part of the block of ten AYs'. Abatement would be triggered by the formation of that opinion rather than the other way around. This, in light of the discernibly distinguishable statutory regime underlying Sections 153A and 153C as explained above. While in the case of the former, a notice would inevitably be issued the moment a search is undertaken or documents requisitioned, whereas in the case of the latter, the proceedings would be liable to be commenced only upon the AO having formed the opinion that the material gathered is likely to inculcate the assessee. While in the case of a Section 153A assessment,

⁴ 2024 SCC OnLine Del 2551



the issue of whether additions are liable to be made based upon the material recovered is an aspect which would merit consideration in the course of the assessment proceedings, under Section 153C, the AO would have to be prima facie satisfied that the documents, data or asset recovered is likely to “*have a bearing on the determination of the total income*”. It is only once an opinion in that regard is formed that the AO would be legally justified in issuing a notice under that provision and which in turn would culminate in the abatement of pending assessments or reassessments as the case may be.

65. We would thus recognize the flow of events contemplated under Section 153C being firstly the receipt of books, accounts, documents or assets by the jurisdictional AO, an evaluation and examination of their contents and an assessment of the potential impact that they may have on the total income for the six AYs' immediately preceding the AY pertaining to the year of search and the “*relevant assessment year*”. It is only once the AO of the non-searched entity is satisfied that the material coming into its possession is likely to “*have a bearing on the determination of the total income*” that a notice under Section 153C would be issued. Abatement would thus be a necessary corollary of that notice. However, both the issuance of notice as well as abatement would have to necessarily be preceded by the satisfaction spoken of above being reached by the jurisdictional AO of the non-searched entity.

66. Therefore, and in our opinion, abatement of the six AYs' or the “*relevant assessment year*” would follow the formation of that opinion and satisfaction in that respect being reached.

67. On an overall consideration of the aforesaid, we come to the firm conclusion that the “incriminating material” which is spoken of would have to be identified with respect to the AY to which it relates or may be likely to impact before the initiation of proceedings under Section 153C of the Act. A material, document or asset recovered in the course of a search or on the basis of a requisition



made would justify abatement of only those pending assessments or reopening of such concluded assessments to which alone it relates or is likely to have a bearing on the estimation of income. The mere existence of a power to assess or reassess the six AYs' immediately preceding the AY corresponding to the year of search or the “relevant assessment year” would not justify a sweeping or indiscriminate invocation of Section 153C.

68. The jurisdictional AO would have to firstly be satisfied that the material received is likely to have a bearing on or impact the total income of years or years which may form part of the block of six or ten AYs' and thereafter proceed to place the assessee on notice under Section 153C. The power to undertake such an assessment would stand confined to those years to which the material may relate or is likely to influence. Absent any material that may either cast a doubt on the estimation of total income for a particular year or years, the AO would not be justified in invoking its powers conferred by Section 153C. It would only be consequent to such satisfaction being reached that a notice would be liable to be issued and thus resulting in the abatement of pending proceedings and reopening of concluded assessments.”

4. Accordingly, and for reasons assigned in our decision in *Saksham Commodities Limited*, we allow the instant writ petitions and quash the impugned notices dated 25 January 2024 issued under Section 153C of the Act and all consequential proceedings arising therefrom.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J

SEPTEMBER 23, 2024/rw