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

\+ W.P.(C) 5173/2024

VINOD KUMAR GARG AND SONS HUF ..... Petitioner

Through: Mr. Sumit Lalchandani, Mr. Salil Kapoor, Ms. Ananya Kapoor, Mr. Shivam Yadav and Mr. Tarun Chanana, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-26 & ANR. ..... Respondents

Through: Mr. Abhishek Maratha, SSC along with Mr. Parth Semwal, JSC and Ms. Nupur Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **09.04.2024**

CM APPL 21166/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 5173/2024 and CM APPL 21165/2024 (Stay)

1. This writ petition has been preferred seeking the following reliefs:-

> "A. Issue writ in the nature Certiorari to quash the impugned notice dated 04.03.2024 issued under Section 153C of the Act along with consequential impugned assessment order dated 22.03.2024 passed under Section 153C of the Act along with the impugned demand notice dated 22.03.2024 issued under section 156 of the Act and impugned penalty notice dated 22.03.2024 issued under section 274 r.w.s. 271(1)(c) of the Act for AY 2013-14;

B. Issue writ in the nature of Prohibition to restrain the Respondent from giving effect to/proceedings further pursuant to the impugned assessment order passed under Section 153C of the Act along with the impugned demand notice dated 22.03.2024 issued under section 156 of the Act and impugned penalty notice dated 22.03.2024 issued under section 274 r.w.s. 271(1)(c) of the Act for AY 2013-14;

C. Issue any other Writ, order, or Direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

D. To dispense with from filing certified copies of Annexures; and

E. To allow the writ petition with cost in favor of the Petitioner and against the Respondent."

2. Undisputedly the issue stands answered and covered in favour of the writ petitioner bearing in mind the principles that we had enunciated in **Pr. Commissioner of Income Tax-1 vs. Ojjus Medicare Pvt. Ltd** [2024 SCC OnLine Del 2439].

3. We find that while dealing with identical questions, we had in *Ojjus Medicare* held as follows:-

"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 non-searched 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.

<u>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</u>

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."

4. Once we come to the conclusion that the initiation of proceedings was wholly untenable, the consequential demand and penalty proceedings would also fall.

5. Accordingly, and for reasons assigned in our decision in *Ojjus Medicare*, we allow the instant writ petition and quash the impugned notice dated 04 March 2024 issued under Section 153C of the Income Tax Act,1961 ['**Act'**]. Consequently, the impugned assessment order dated 22 March 2024 along with the impugned demand notice dated 22 March 2024 issued under Section 156 of the Act and impugned penalty notice dated 22 March 2024 issued under Section 274 read with Section 271(1)(c) of the Act for AY 2013-14 also stand quashed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 09, 2024/RW