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

\+ W.P.(C) 12078/2023 & CM APPL 47445/2023

DINESH JINDAL ..... Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor and Ms. Soniya Dodeja, Advocates

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 20, DELHI & ORS. ..... Respondents

Through: Mr. Prashant Meharchandani, Sr. SC alongwith Mr. Akshat Singh, Jr. SC with Ms. Ritika Vohra and Mr. Utkarsh Kandpal, Advocates

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

O R D E R

% **27.05.2024**

1. Learned counsel for parties are ad idem that the challenge herein would be liable to be upheld bearing in mind the judgement rendered by us on 15 April 2024 in W.P.(C) 12148/2023 titled as **Filatex India Ltd. v. Deputy Commissioner of Income Tax & Anr**.

2. Dealing with the power to reopen under the amended regime which came into effect from 01 April 2021 and the scope and ambit of the First Proviso to Section 149(1) of the Income Tax Act, 1961 [“**Act**”], we had held as follows:-

> 3. As is evident from the prima facie observations which came to be rendered by us on that occasion, the reassessment which is sought to be initiated for Assessment Year [“**AY**”] 2012-13 would not sustain bearing in mind the prescription of limitation as contained in Section 149(1)(b) of the Income Tax Act, 1961 [“**Act**”] as it stood at the relevant time.

4. We note that while dealing with a similar question of computation of the time limit for the "*relevant assessment year*" as provided under Explanation 1 to Section 153A of the Act, we had in the case of **Principal Commissioner of Income Tax-Central-1 v. Ojjus Medicare Pvt. Ltd.** [2024 SCC Online Del 2439] 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.
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> **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."

5. In view of the aforesaid, we find ourselves unable to sustain the impugned notice dated 13 March 2023 issued under Section 148 of the Act.

6. The writ petition is accordingly allowed and the impugned order dated 18 May 2023 disposing off the objections of the petitioner is hereby quashed. We in consequence also quash the notice dated 13 March 2023 purporting to commence proceedings under Section 148 of the Act."

3. In view of the aforesaid and considering the position in law, we allow the instant writ petition and quash the impugned notice dated 30 March 2023 referrable to Section 148 of the Act.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 27, 2024
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