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

\+ ITA 188/2022 & CM APPL 22948/2024

PCIT-7 ..... Appellant

Through: Mr. Sunil Agarwal, SSC along with Mr. Shivansh B. Pandya, JSC and Mr. Utkarsh Tiwari, Adv.

versus

M/S SIR SHAADILAL ENTERPRISES LTD. ..... Respondent

Through: Mr. Inder Paul Bansal, Mr. Vivek Bansal and Mr. Vishal Chechi, Advs.

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

<u>O R D E R</u>

% **07.05.2024**

1. Pursuant to the earlier orders passed, the respondent-assessee has placed the following particulars indicating the sequence of events which occurred post the search which was conducted on 14 February 2006. The said chart is reproduced hereinbelow:-

u/s 143(3) of the Income Tax Act, 1961 ('the Act')

S. No.	Date	Particulars
1.	14-09-2005	Scrutiny proceedings started
2.	11-12-2006	Proceedings u/s 143(3) kept in abeyance.
3.	16-05-2013	Assessment proceedings u/s 143(3) revived on quashing of the assessment order dated 18-12-2007 by ITAT as per order dated 23-11-2012 (para 2 of the assessment order dated 29-11-2013)
4.	29-11-2013	Assessment order passed and addition of Rs.3,33,13,300/- was repeated.

		(Annexure A-2 from page 77 to 95)
5.	07-08-2014	ITO submitted remand report before CIT(A) (from pages 208 to 209 of additional papers filed by the Respondent)
6.	21-08-2014	CIT(A) confirmed the addition. (Annexure A-3 from page 96 to 117)
7.	16-12-2019	ITAT deleted the addition. (Annexure A-1 from page 28 to 76 impugned in the present appeal)

Department has preferred the present appeal contesting ITAT order dated 16-12-2019

u/s 153C of the Income Tax Act, 1961 ('the Act')

S. No.	**Date**	**Particulars**
1.	14-02-2006	Search on Radico Khaitan & R K Miglani
2.	11-12-2006	Notice u/s 153C issued to the assessee.
3.	18-12-2007	Assessment framed with addition of Rs. 3,33,13,300/-. (from pages l to 48 of addition paper filed by the Respondent)
4.	25-04-2011	CIT(A) dismissed the appeal of the assessee. (from pages 49 to 55 of additional papers filed by the Respondent)
5.	23-11-2012	ITAT deleted the addition by quashing the assessment. (from pages 159 to 194 additional papers filed by the Respondent)
6.	07-07-2015	This Hon'ble Court set aside the order of the annulment dated 23-11-2013 passed by the Tribunal and appeal was remitted to Income Tax Appellate Tribunal order at pg 203-205 of the additional paper submitted by the Respondent)
7.	14-12-2018	ITAT passed remand order giving effect to order dated 22-01-2015 and allowed the appeal of the assessee. (Annexure A-4 from page 118 to 274 in Departmental appeal)

Department did not contest order of ITAT dated 14-12-2018

2. As would be manifest from the above, the scrutiny assessment proceedings for Assessment Year ['**A.Y.**'] 2004-05 which were pending on the date of search would undoubtedly abate. Subsequently,

it would be the assessments undertaken in terms of Section 153C of the Income Tax Act, 1961 [**'Act'**] which would prevail. Although that assessment was ultimately annulled by the Income Tax Appellate Tribunal [**'ITAT'**] and which allowed the appeal of the assessee on 14 December 2018, the appellants do not rely upon any Section 143 (3) framed thereafter. The window within which an assessment could have been framed independent of the search assessment as per Section 153C would have been between 23 November 2012 when the ITAT set aside that assessment and till the decision came to be reiterated on 14 December 2018. In between this Court had set aside the order of the ITAT and remanded it for fresh consideration on 07 July 2015. Thus between that date and up to 14 December 2018 it could not be said that the search assessment had seized to exist.

3. The appellants in this appeal only rely upon an order of assessment made in November 2013. In that view of the matter, we find no justification to continue this appeal.

4. Accordingly, while the same is dismissed, this order shall be without prejudice to the right of the appellant to address submissions on any appeal that may have been preferred in respect of the order of 14 December 2018.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 07, 2024/RW