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

\+ W.P.(C) 15668/2024 and CM APPL. 65785/2024

NEERAJ JAIN .....Petitioner

Through: Mr Nitin Gulati with Ms Reena Gandhi, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 20 & ANR. .....Respondents

Through: Mr Debesh Panda, SSC with Ms Zehra Khan, Mr Vikramaditya Singh and Mr K. Sri Aditya, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

O R D E R

% **14.11.2024**

1. The petitioner has filed the present petition impugning a notice dated 20.10.2023 (hereafter *the impugned notice*) issued under Section 143(2) of the Income Tax Act, 1961 (hereafter *the Act*) as well as the order dated 08.10.2024, whereby the Assessing Officer (AO) rejected the petitioner's objection that the assessment year (AY) 2014-15 does not fall within the definition of "relevant assessment year" under Section 153C of the Act.

2. The learned counsel for the petitioner submits that the impugned notice issued in respect of AY 2014-15 is beyond the period of ten years and cannot be a subject matter of reassessment under Section 153C of the Act. In the aforesaid regard, the petitioner had filed his objections by a letter

dated 31.08.2024 referring to the provisions of Section 153C of the Act and contending that the computation for a block of ten years necessarily required to be reckoned from the end of the assessment year relevant to the financial year (FY) in which the satisfaction note for initiation of such proceedings was recorded by the AO of the searched person.

3. The respondent (hereafter *the Revenue*) has filed a counter-affidavit, which is not on record. However, a copy of the same was handed over to this Court by the learned counsel for the Revenue.

4. Mr Debesh Panda, learned counsel for the Revenue has also drawn the attention of this Court to Annexure-1 to the counter-affidavit which reflects that the satisfaction notes regarding the seized assets belonging to a person other than the searched person (the Assessee in this case) was recorded on 06.07.2023. The satisfaction note recorded by the AO of the searched person does not bear any date. However, the satisfaction note of the AO exercising jurisdiction in respect of the Assessee bears the date 06.07.2023. It is stated that the AO of the searched person and the Assessee is the same person. Therefore, the satisfaction note by the AO of the searched person should also be construed as recorded on 06.07.2023.

5. Since the notice and the satisfaction note are issued/recorded during FY 2023-24, which is relevant to the AY 2024-25, the period of ten years is required to be considered from the end of the AY 2024-25. The issue regarding the calculation of the block of ten years is covered by the decision of a Coordinate bench of this Court in ***Principal Commissioner of Income Tax-Central-1 v. Ojjus Medicare Pvt. Ltd. : 2024 SCC OnLine Del 2439***. The relevant extracts of the said judgment is set out below:

"86. In the present batch, List I pertains to writ petitions which have

Satisfaction Notes recorded or Section 153C notices issued between the period 01 April 2021 to 31 March 2022. Undisputedly, the First Proviso to Section 153C, and which has been consistently recognized to also embody the commencement point for reckoning the six or the ten AYs', shifts the relevant date from the date of initiation of search or a requisition made to the date of receipt of books of account or documents and assets seized by the jurisdictional AO of the non-searched person. Consequently, the block of six or ten AYs' would have to be reckoned bearing the aforesaid date in mind. Although in the present batch of writ petitions, the date of actual handing over has not been explicitly mentioned in a majority of the writ petitions, learned counsels for respective sides had addressed submissions based on the assumption that it would be the date of issuance of the Satisfaction Note by the AO of the non-searched person and in the case of nonavailability of such a note, the date of issuance of the Section 153C notices which would be pertinent for the purposes of the First Proviso to Section 153C.

87. Assuming, therefore, that the handover of material gathered in the course of the search and pertaining to the non-searched person occurred between 01 April 2021 to 31 March 2022, the same would essentially constitute FY 2021-22 as being the previous year of search for the purposes of the non-searched entity. As a necessary corollary, the relevant AY would become AY 2022-23. AY 2022-23 would thus constitute the starting point for the purposes of identifying the six years which are spoken of in Section 153C. The six AYs' are envisaged to be those which immediately precede the AY so identified with reference to the previous year of search. It would thus lead us to conclude that it would be the six AYs' immediately preceding AY 2022-23 which could have formed the basis for initiation of action under Section 153C. Consequently, and reckoned backward, the six relevant AYs' would be: –

Computation of the six-year block period as provided under Section 153C of the Act	**No. of years**
AY 2021-22	1
AY 2020-21	2
AY 2019-20	3
AY 2018-19	4
AY 2017-18	5

AY 2016-17	6

Consequently, AY 2021-22 would become the first of the six preceding AYs' and would as per the table set out hereinabove terminate at AY 2016-17.

88. Section 153A replicates the basis on which the six AYs' are to be identified and computed with the solitary distinction being that in the case of the searched person, the six AYs' are liable to be computed from the AY pertaining to the FY in which the search was conducted. The starting point for the purposes of identifying the six AYs' in the case of Section 153A would thus turn upon the year of search as opposed to the handover of material which is spoken of in the First Proviso to Section 153C. If one were to therefore assume that a search took place on a person between 01 April 2021 to 31 March 2022, the pertinent AY would become AY 2022-23 and the corresponding six AYs' would be as follows: -

Computation of the six-year block period as provided under Section 153C of the Act	**No. of years**
AY 2021-2022	1
AY 2020-2021	2
AY 2019-2020	3
AY 2018-2019	4
AY 2017-2018	5
AY 2016-2017	6

89. That takes us then to the issue of identifying the "*relevant assessment year*" for the purposes of computing the ten year block. Explanation 1 to Section 153A specifies the manner in which the entire ten AY period is to be computed. While the computation of six AYs' follows the position as enunciated and identified above, Explanation 1 prescribes that the ten AYs' would have to be computed from the end of the AY relevant to the FY in which the search was conducted or requisition made. The ten AY period consequently is to be reckoned from the end of the AY pertaining to the previous year in which the search was conducted as distinct from the preceding year which is spoken of in the case of the six relevant

AYs'.

90. Viewed in that light, and while keeping the period of 01 April 2021 to 31 March 2022 as the constant, the relevant AY would be AY 2022-23. The ten AYs' would have to be computed from 31 March 2023 with the said date indubitably constituting the end of the AY relevant to the previous year of search. Viewed in light of the above, the block period of 10 AYs' would be as follows: -

Computation of the ten-year block period as provided under Section 153C read with Section 153A of the Act	**No. of years**
AY 2022-23	1
AY 2021-22	2
AY 2020-21	3
AY 2019-20	4
AY 2018-19	5
AY 2017-18	6
AY 2016-17	7
AY 2015-16	8
AY 2014-15	9
AY 2013-14	10"

6. Although, the Assessee has not specifically sought any prayer for setting aside the notice dated 18.08.2023 issued under Section 153C of the Act in respect of the AY 2014-15, it is apparent that the substance of the challenge is reopening the assessment for the AY 2014-15. In view of the above decision, it is apparent that the AO cannot proceed to take any steps for assessment in relation to AY 2014-15, as the same is barred by limitation.

7. In view of the above, it is apparent that the Assessee's contention that the assessment for the year relevant to AY 2014-15 cannot proceed under Section 153C of the Act, in the given facts and circumstances of the case, is merited.

8. The petition is accordingly allowed and the impugned notice issued under Section 143(2) of the Act is set aside. Pending application also stands disposed of.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 14, 2024

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Click here to check corrigendum, if any