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

\+ ITA 558/2024 & CM No.67007/2024

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL TAXATION -3 .....Appellant

Through: Mr. Ruchir Bhatia, Mr. Anant Mann & Mr. Abhishek Anand, Advs.

Versus

ROLLAND ENTERPRISES LTD. .....Respondent

Through: Ms. Kavita Jha, Sr. Adv. with Mr. Vaibhav Kulkarni & Mr. Himanshu Aggarwal, Advs.

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

O R D E R

% **02.12.2024**

1. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 (hereafter *the Act*) impugning a common order dated 29.12.2023 (hereafter *the impugned order*) passed by the learned Income Tax Appellate Tribunal (hereafter *the ITAT*) in ITA Nos.3348/Del/2015 & 3353/Del/2015 and cross objections being CO. Nos.352/Del/2015 & 357/Del/2015. The present appeal is confined to the impugned order insofar as it relates to ITA Nos.3348/Del/2015 and CO. No.352/Del/2015, which relate to assessment year (AY) 2007-08.

2. The learned ITAT allowed the Assessee's cross objections and held that the assessments framed for AY 2007-08 was invalid.

3. The Revenue has projected the following questions of law for consideration of this court:

> "2.1 Whether on the facts and in the circumstances of the case, the Ld. ITAT has erred in law in holding that

assessment made for the year under consideration are outside the scope of section 153C of the Act and treated the assessment as voids ab initio, even when assessing officer of searched person and that of the other person is the same and proviso to section 153C is confirmed in its application to the question of abatement and does not cater with regard to date from which six years period was to be reckoned?

2.2 Whether on the facts and in the circumstances of the case, Ld. ITAT has erred by relying on the case laws wherein the facts of the case are different from this case?

2.3 Whether on the facts and in the circumstances of the case, the Ld. ITAT has erred by not appreciating the fact that the AO of the searched person and the AO of the Assessee are same especially when the AO was satisfied that the documents seized from the person in respect to whom the search was conducted belong to the other person and consequently recorded the satisfaction note date 18.11.2013?"

4. The relevant context in which the aforesaid questions of law arise are briefly narrated as under:

4.1 A search was conducted on 22.03.2012 on M/s Focus Energy Group of companies. During the search proceedings, certain material was found, which contained information pertaining to the Assessee. Thus, the Assessing Officer (AO) of the searched person prepared a satisfaction note dated 18.11.2013 for the purposes of invoking Section 153C of the Act.

4.2 The AO framed the assessment under Section 153C/144 of the Act in respect of AY 2007-08. The Assessee appealed the assessment order before the Commissioner of Income Tax (Appeals) [hereafter *the CIT(A)*], which was allowed.

4.3 Aggrieved by the same, the Revenue preferred an appeal before the

Income Tax Appellate Tribunal (hereafter *the ITAT*). The Assessee also filed cross objections in the said appeal, *inter alia*, claiming that the assessments framed under Section 153C of the Act in respect of the AY 2007-08 were beyond the period of six years as stipulated under Section 153C of the Act.

5. The learned ITAT allowed the cross objections and consequently dismissed the appeal preferred by the Revenue.

6. The question whether the assessment in respect of the AY 2007-08 could be reopened under Section 153C of the Act on the basis of a satisfaction note dated 18.11.2013 is no longer *res integra.* The date of the satisfaction note is required to be construed as the date of the search for imputing the provisions for calculating the block period of six years as held by this court in ***Commissioner of Income Tax-7 v. RRJ Securities Ltd.: (2016) 380 ITR 612*** and in ***Commissioner of Income Tax v. Jasjit Singh: (2023) 458 ITR 437***.

7. In view of the above, we find no infirmity with the decision of the learned ITAT in allowing the cross objections preferred by the Assessee and dismissing the appeal filed by the Revenue.

8. No substantial questions of law arise in the present appeal. The same is dismissed.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

DECEMBER 02, 2024

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Click here to check corrigendum, if any