IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 5412 OF 2024

Ashok Khandelwal .. Petitioner

Versus

Union of India and Ors. .. Respondents

***Adv. Naresh Jain**, a/w Adv. Mahaveer Jain and Adv. Shobhit Mishra i/b Adv. Neha Anchlia, for the Petitioner.*

***Adv. Akhileshwar Sharma (through V.C.)**, for the Respondent.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: NOVEMBER 4, 2025

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable forthwith and heard finally.

2. The above Writ Petition is filed seeking to quash the impugned notice issued by Respondent No.2 under Section 153C of the Income Tax Act, 1961 (for short "the Act") dated 1st November 2022. The notice pertains to Assessment Year 2010-11. As a consequence, the Petitioner also challenges the notice dated 5th December 2023 issued under Section 142(1) of the Act by Respondent No.3 for the Assessment Year 2010-11.

3. A number of contentions have been raised in the Petition. Mr. Jain, the learned Counsel for the Petitioner, submits that one of the grounds on which the notice dated 1st November 2022 issued under Section 153C is challenged is that the said notice is time barred. He further submits that if this Court finds that the notice is time barred then other contentions would become merely academic.

4. Mr. Jain submits that during the course of search proceedings conducted on 18th October 2019 under Section 132 of the Act on the Alankit Group of Companies (**the searched person/party**), certain materials/documents allegedly relating to the Petitioner (**the other person/party**) were found. The Assessing Officer of the searched person prepared a satisfaction note dated 24th June 2022 under Section 153C of the Act as it stood at the relevant time in respect of the Petitioner (other person) pertaining to Financial Years 2009-10, 2010-11 and 2013-14. This correspondingly relates to Assessment Years 2010-11, 2011-12 and 2014-15. The satisfaction note so prepared was thereafter forwarded to the Assessing Officer of the Petitioner.

5. The Assessing Officer of the Petitioner, acting upon the satisfaction note so received, issued a notice dated 1st November 2022 under Section 153C of the Act for the Assessment year 2010-11. It is the contention of the Petitioner that the said notice dated 1st November 2022 is *prima facie* time barred as reopening under Section 153C is done beyond 10 years from the date of recording of the satisfaction note as well as from the issuance of the notice under Section 153C. The learned Counsel brings to the attention that the satisfaction note for the transfer of documents from the Assessing Officer of the searched party to the Assessing Officer of the Petitioner was recorded on 24th June 2022, as is clear from Exhibit-E. Subsequently, notice under Section 153C was issued on 1st November 2022. Section 153C of the Act permits reopening of maximum 10 years from the end of the Assessment Year in which documents found in the course of search is transferred by the Assessing Officer of the searched party to the Assessing Officer of the other party.

6. In support of this contention, the learned Counsel for the Petitioner placed reliance upon the judgment of the Hon'ble Supreme Court in ***Commissioner of Income Tax v. Jasjit Singh [[2023] 155 taxmann.com 155 (SC)]***. The learned Counsel also relied upon the judgment of the Hon'ble Delhi High Court in the case of ***Principal Commissioner of Income Tax v. Ojjus Medicare Pvt. Ltd. [2024 (4) TMI 268]***.

7. Mr. Sharma, the learned Counsel appearing on behalf of the Revenue, sought to justify the issuance of the notice under Section 153C by referring to the averments made in the Affidavit-in-Reply filed on behalf of the Revenue.

8. We have heard the parties. With their assistance, we have also perused the documents. We find that the satisfaction note drawn under Section 153C of the Act by the Assessing Officer of the searched person is dated 24th June 2022. As per the satisfaction note, the incriminating material in respect of the Petitioner was found in the Financial Year 2009-10, 2010-11 and 2013-14. The present Petition pertains to the Assessment Year 2010-11, which corresponds to the Financial Year 2009-10.

9. Section 153C of the Act reads as under:-

> *"153C. (1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—*
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> *(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or*
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> *(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the*

> *books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and] for the relevant assessment year or years referred to in sub-section (1) of section 153A :*
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> *Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to sub-section (1) of section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person :"*

10. As per Section 153C, if during the course of search action on some assessee, incriminating documents or material is found concerning a third party, the case can be reopened for six assessment years and "relevant assessment years" preceding the previous year in which the search is conducted. The term "relevant assessment year" is defined in Explanation 1 to Section 153A, which is reproduced hereinbelow:-

> *"Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made."*

11. As per the above explanation, the maximum period for reopening cannot be later than 10 Assessment Years from the end of the Assessment Year in which the search is conducted. The first proviso to Section 153C provides that the date of search under Section 132 shall be construed as the date of receiving the books of accounts or documents by the Assessing Officer having jurisdiction over such other person.

12. Thus, the issue in the present Petition is narrow and is limited to the computation of the relevant assessment year as given in Explanation 1 of Section 153A of the Act, for which an assessment order can be made under Section 153C of the Act.

13. This issue came for consideration before the Hon'ble Supreme Court in the case of *Jasjit Singh (supra)*. The issue before the Hon'ble Supreme Court in the case was whether the period of issuance of notice under Section 153C should commence: (a) only from the date the materials were forwarded to the Assessing Officer of the third party; or (b) from the date the search and seizure proceedings were conducted, in respect of the main assessee under Section 132. This has been set out in paragraph 4 of the judgment, which is reproduced hereunder:-

> *"4. Notice was issued by the concerned jurisdictional A.Os. to the said assessees who contended that the period for which they were required to file returns, commenced only from the date the materials were forwarded to their A.Os. The Revenue, on the other hand, urged that the date (relatable to the period for which six years returns were to be filed by the assessee) was to be from the date when the search and seizure proceedings were conducted, in respect of the main assessee under Section 132."*

14. The Hon'ble Supreme Court, in the said judgment, held that the time period for issuing notice under Section 153C should commence from the end of the Assessment Year in which the records are transferred to the Assessing Officer of the third party by the Assessing Officer of the searched party. The relevant portion of the judgment which is reproduced hereunder:-

> *"9. It is evident on a plain interpretation of Section 153C(1) that the Parliamentary intent to enact the proviso was to cater not merely to the question of abatement but also with regard to the date from which the six year period was to be reckoned, in respect of which the returns were to be filed by the third party (whose premises are not searched and in respect of whom the specific provision under Section 153-C was enacted. The revenue argued that the proviso [to Section 153(c)(1)] is confined in its application to the question of abatement.*
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> *10. This Court is of the opinion that the revenue's argument is insubstantial and without merit. It is quite plausible that without the kind of interpretation which SSP Aviation adopted, the A.O. seized of the materials – of the search party, under Section 132 – would take his own time to forward the papers and materials belonging to the third party, to the concerned A.O. In that event if the date would virtually "relate back" as is sought to be contended by the revenue, (to the date of the seizure), the prejudice caused to the third party, who would be drawn into proceedings as it were unwittingly (and in many cases have no concern with it at all), is dis-proportionate. For instance, if the papers are in fact assigned under Section 153-C after a period of four years, the third party assessee's prejudice is writ large as it would have to virtually preserve the records for at latest 10 years which is not the requirement in law. Such disastrous and harsh consequences cannot be attributed to Parliament. On the other hand, a plain reading of Section 153-C supports the interpretation which this Court adopts."*

15. The Hon'ble Delhi High Court in the case of *Ojjus Medicare Pvt. Ltd. (supra)* in its elaborate judgment, has taken the same view following the above referred decision of the Hon'ble Supreme Court. In the case before the Hon'ble Delhi High Court, the issue was identical to the present Petition. In that case also the searched party was the Alankit Group of Companies, i.e. same as that of the Petitioner. The documents and records seized from the premises of the Alankit Group of Companies pertained to the Petitioner therein, M/s Ojjus Medicare Pvt. Ltd. Though the search was conducted on the Alankit Group of Companies on 18th October 2019, the notice under Section 153C was issued after the transfer of records to the Assessing Officer of the third party. The question before the Hon'ble Delhi High Court was at what point of time the limitation for the issue of notice under Section 153C commences. Whether the relevant date commences from the date of search (i.e. 18th October 2019), or the date of transfer of record to the Assessing Officer of the third party. In paragraph 78 of the aforesaid judgment, the Hon'ble Delhi High Court relied upon the judgment of the Hon'ble Supreme Court in the case of *Jasjit Singh (supra)*. Thereafter, the Hon'ble Delhi High Court concluded that the period of limitation for issuing notice under Section 153C shall commence from the end of the Assessment Year in which records are transferred to the Assessing Officer of the third party by the Assessing Officer of searched party. The relevant portion of the judgment is reproduced hereunder:-

> *"119. We thus record our conclusions as follows:*
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> …

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.

...

120. In view of the aforesaid discussion, the writ petitions placed in Lists I and II and pertaining to AYs' 2010- 11, 2011-12, 2012-13 and 2013-14, all of which fall beyond the maximum ten year block period shall stand allowed. The impugned notices pertaining to the aforenoted AYs' shall consequently stand quashed."

16. In the facts of the present case, admittedly, the impugned notice issued by Respondent No.2 under Section 153C of the Act pertains to Assessment Year 2010-11, which is beyond the maximum period of 10 years as mandated under Section 153C. Finding that the issue raised in the present Writ Petition is squarely covered by the aforesaid decisions, we allow the above Writ Petition in terms of prayer clause (b) and (c), which read thus:-

*"(b) that this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned notice issued by the Respondent No.2 u/s 153C of the Act dated 01.11.2022 for the AY 2010-11 (**being Exhibit 'B' hereto**) and after*

going into the validity and legality thereof to quash and set aside the same.

*(c) That this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned notice issued by the Respondent No.3 u/s 142(1) of the Act dated 05.12.2022 for the AY 2010-11 (**being Exhibit 'C' hereto**) and after going into the validity and legality thereof to quash and set aside the same."*

17. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

18. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**

Darshan Patil