



\$~242

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

+ W.P.(C) 3059/2025 & CM APPL. 14483-84/2025

ADITI INFRABUILD AND SERVICES LIMITEDPetitioner

Through: Ms. Ananya Kapoor, Mr. Sanath Kapoor, Mr. Shivam Yadav and Mr. Tarun Channana, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 30, DELHI & ANRRespondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh and Mr. Yojit Prateek, JSCs for Income Tax Department.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
11.03.2025

%

1. The petitioner has filed the present petition, inter alia, impugning a notice dated 30.08.2024 (hereafter the impugned notice) issued under 153C of the Income Tax Act, 1961 (hereafter the Act) as well as the proceedings for re-assessment of the petitioner's income in respect of Assessment Year (AY) 2016-17.

2. The impugned notice is premised on the satisfaction note of the Assessing Officer (AO) of Mr. Samir Modi and Ms. Shivani Modi (searched persons), which recorded that documents containing information



pertaining to the petitioner were found during the search conducted in the case of searched persons on 03.02.2021.

3. Admittedly, the satisfaction note does not contain any information which may have a bearing on determining the petitioner's income assessable in the AY 2016-17. The note indicates that in view of the description of the documents found and seized during the course of the search, the documents belong to the petitioner.

4. It is clear from the information provided in the satisfaction note dated 26.06.2024 entered by the AO of the searched persons and satisfaction note dated 30.08.2024 entered by AO of the other than the searched person could not possibly lead to the conclusion that the income of the assessee for AY 2016-17 had escaped assessment. The ledgers found cannot be considered as containing any incriminating material pertaining to the petitioner in respect of AY 2016-17. Thus, the petitioner's assessment for the said year could not be reopened under Section 153C of the Act.

5. Concededly, the aforesaid issue is covered by the decision of the Supreme Court in ***Commissioner of Income Tax-III, Pune v. Sinhgad Technical Education Society: [2017] 84 taxmann.com 290*** as well as the recent decisions of this Court in ***Saksham Commodities Ltd. vs. Income Tax Officer Ward 22 (1), Delhi & Anr.: 2024:DHC:2836-DB*** and ***Landcraft Developers Private Limited vs. Assistant Commissioner of Income Tax, Central Circle 27, Delhi & Anr., W.P.(C) 1935/2025*** decided on 28.02.2025.

6. It is relevant to set out paragraph 68 of the decision in ***Saksham Commodities (supra)*** which reads as under:-



*“68. The jurisdictional AO would have to firstly be satisfied that the material received is likely to have a bearing on or impact the total income of years or years which may form part of the block of six or ten AYs’ and thereafter proceed to place the assessee on notice under Section 153C. **The power to undertake such an assessment would stand confined to those years to which the material may relate or is likely to influence. Absent any material that may either cast a doubt on the estimation of total income for a particular year or years, the AO would not be justified in invoking its powers conferred by Section 153C. It would only be consequent to such satisfaction being reached that a notice would be liable to be issued and thus resulting in the abatement of pending proceedings and reopening of concluded assessments.**”*

[Emphasis added]

7. The learned counsel for the respondent concurs with the aforesaid view.
8. In view of the above, the present petition is allowed and the impugned notice issued under Section 153C of the Act in respect of AY 2016-17 is set aside.
9. Pending applications also stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

MARCH 11, 2025/rl