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

\+ W.P.(C) 3506/2025 & CM APPL. 16388/2025

CAROL INFRASTRUCTURE PRIVATE LIMITED.....Petitioner

Through: Mr. Sumit Lal Chandani, Mr. Shivam Yadav, Ms. Ananya Kapoor, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,CENTRAL CIRCLE27, DELHI & ANR. .....Respondents

Through: Mr Gaurav Gupta, SSC, Mr Shivendra Singh, Mr Yojit Pareek, JSCs and Ms Prakriti Rastogi, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% **15.04.2025**

1. Though the matter was scheduled for hearing on 14.04.2025, it was declared a holiday on account of the birthday of Dr B R Ambedkar and therefore, the matter has been taken up today in view of the Notification No.10/G-4/Genl-I/DHC dated 07.04.2025, issued by this court.

2. The petitioner has filed the present petition, *inter alia,* impugning the notice dated 19.12.2023 [**impugned notice**] issued under Section 153C of the Income Tax Act, 1961 [**the Act**] in respect of the Assessment Year [**AY**] 2018-19 as well as the proceedings initiated pursuant to the impugned notice.

3. It is pointed out that the petitioner [**Assessee**] had filed its return of income for the AY 2018-19 on 27.10.2018. Thereafter, on 24.03.2022 the Assessing Officer [**AO**] issued a notice under Section 148A(b) of the Act

and called upon the petitioner to show cause why the assessment for the relevant assessment year [AY 2018-19] not be opened on the basis of the information as available with the AO. Thereafter, pursuant to the said notice, an order dated 25.04.2022 was passed under Section 148A(d) of the Act holding that it was a fit case for issuance of notice under Section 148 of the Act. Whilst, the said proceedings were pending, on 20.07.2022, search and seizure operation was carried out in the case of SMC Group. Apparently, certain material was found during those proceedings which had a bearing on the income of the Assessee. Accordingly, a notice under Section 153C of the Act was issued.

4. As noted above, the Assessee seeks to challenge the proceedings initiated pursuant to the said notice. The satisfaction note recorded by the AO of the searched entity indicates that it was found that the bank account of the Assessee for Financial Year [**FY**] 2014-15 contained certain entries aggregating to a sum of ₹1,27,00,000/-. Thereafter, the AO exercising jurisdiction in the case of Assessee also recorded his satisfaction that the information had a bearing on the assessment of the income of the Assessee.

5. It is noted from the above, that there is no information available, which would remotely suggest that the income of the Assessee for the financial year relevant to AY 2018-19 had escaped assessment. As mentioned in the satisfaction note, the information pertained to the FY 2014-15. Thus, there is no incriminating material on the basis of which the assessment for the AY 2018-19 could be reopened under Section 153C of the Act.

6. The question whether the notice under Section 153C of the Act could be issued in respect of the assessment year for which no incriminating

material is found during the search conducted on another person, is no longer *res integra*. The said issue is covered by the earlier decision of this court in ***Commissioner of Income Tax (Central)-III v. Kabul Chawla : Neutral Citation : 2015:DHC:7044-DB;*** decision of the Gujarat High Court in ***Pr. CIT v. Saumya Constructions (P) Limited :2016 SCC Online Guj 9976*** and the decision of the Supreme Court in ***Principal Commissioner of Income Tax, Central-3 v. Abhisar Buildwell Private Ltd : (2024) 2 SCC 433.***

7. Concededly, a similar issue was also considered by this court in ***Saksham Commodities Limited v. Income Tax Officer Ward 22(1), Delhi & Another : Neutral Citation : 2024:DHC:2836-DB.*** The Special Leave Petition [Special Leave Petition (Civil) Diary No.51947/2024] against the said decision was dismissed by the Supreme Court on 16.12.2024.

8. In view of the above, the present petition is allowed and the impugned notice dated 19.12.2023 in respect of the AY 2018-19 and proceedings initiated pursuant thereto are set aside.

9. The petition is disposed of in the above terms. The pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 15, 2025
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Click here to check corrigendum, if any