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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3679/2025 and CM APPL. 17249/2025
SHIVA UTENSILS INDUSTRIES PRIVATE
LIMITED THROUGH MR. SHIV KUMAR
GUPTA DIRECTORPetitioner
Through: Mr Nischay Kantoor, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME
TAX CIRCLE 22 2 DELHI & ORS.Respondents
Through: Mr Sunil Agrawal, SSC.

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

ORDER
26.03.2025

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1. The petitioner [**Assessee**] has filed the present petition impugning a notice dated 31.03.2024 [**impugned notice**] issued under Section 148 of the Income Tax Act, 1961 [**the Act**] in respect of Assessment Year [**AY**] 2014-15. It is the Assessee's case that the said notice is barred by limitation. The issuance of said notice is premised on a search conducted on 09.06.2022 under Section 132 of the Act in case of Sh. Naresh Kumar Kejriwal. It is alleged that during the course of search or requisition made under Section 132A of the Act, certain books of account or documents were found belonging to or containing information relating to the Assessee.
2. The controversy involved in the present case is covered by the earlier decision of this court in *Dinesh Jindal v. Assistant Commissioner of Income Tax, Central Circle 20, Delhi & Others*:



Neutral Citation No.: 2024:DHC:4554-DB, wherein this court has held as under:

“8. Undisputedly, and in terms of Section 153C(3) of the Act, any search if conducted after 01 April 2021, would cease to be regulated by that provision. Sub-section (3), in that sense, embodies a sunset clause insofar as the applicability of Section 153C is concerned. The First Proviso to Section 149(1), however, bids us to go back in a point of time, and to examine whether a reopening would sustain bearing in mind the timeframes as they stood embodied in Section 149(1)(b) or Section 153A and 153C, as the case may be. The First Proviso essentially requires us to undertake that consideration bearing in mind the timeframes which stood specified in Sections 149, 153A and 153C as they stood prior to the commencement of Finance Act, 2021.

9. Thus, an action of reassessment which comes to be initiated in relation to a search undertaken on or after 01 April 2021 would have to meet the foundational tests as specified in the First Proviso to Section 149(1). A reassessment action would thus have to not only satisfy the time frames constructed in terms of Section 149, but in a relevant case and which is concerned with a search, also those which would be applicable by virtue of the provisions of Section 153A and 153C.

10. Undisputedly, and if the validity of the reassessment were to be tested on the anvil of Section 153C, the petitioner would be entitled to succeed for the following reasons. It is an undisputed fact that the proceedings under Section 148 commenced on the basis of the impugned notice dated 30 March 2023. This date would be of seminal importance since the period of six AYs’ or the “relevant assessment year” would have to be reckoned from the date when action was initiated to reopen the assessment pertaining to AY 2013- 14.

11. The computation of the six or the block of ten AYs’ was explained by us in *Ojjus Medicare Private Limited* in the following terms:

“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.

E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs' would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under Section 153A.

F. While the identification and computation of the six AYs' hinges upon the phrase “immediately preceding the assessment year relevant to the previous year” of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly, Explanation 1 of Section 153A requires us to reckon it “from the end of the assessment year”. This distinction would have to



necessarily be acknowledged in light of the statute having consciously adopted the phraseology “immediately preceding” when it be in relation to the six year period and employing the expression “from the end of the assessment year” while speaking of the ten year block .”

12. Viewed in that light, it is manifest that AY 2013-14 would fall beyond the block period of ten years. It becomes pertinent to note that the First Proviso to Section 149(1) compels us to test the validity of initiation of action for reassessment commenced pursuant to a search, based upon it being found that the proceedings would have sustained bearing in mind the timelines prescribed in Sections 149, 153A and 153C, as they existed prior to the commencement of Finance Act, 2021. This necessarily requires us to advert to the timeframes comprised in both Section 149(1)(b) as well as Section 153C as it existed on the statute book prior to 01 April 2021, which undisputedly was the date from when Finance Act, 2021 came into effect.

13. While it is true that Section 153C and the procedure prescribed therein had ceased to be applicable post 31 March 2021, the First Proviso to Section 149(1) does not appear to suggest that the First Proviso to Section 153C(1) would either become inapplicable or be liable to be ignored. Undisputedly, the First Proviso to Section 153C(1), by virtue of a legal fiction enshrined therein requires one to treat the date of initiation of search, and which otherwise constitutes the commencement point for a search assessment in the case of a non-searched party, to be construed as the date when books of accounts or documents and assets seized or requisitioned are transmitted to the AO of such “other person”. Resultantly, the computation of the six preceding AYs’ or the “*relevant assessment year*” in the case of the non searched entity has to be reckoned from the time when the material unearthed in the search is handed over to the jurisdictional AO. The import of this legal fiction is no longer res integra bearing in mind the judgment of the Supreme Court in *CIT v. Jasjit Singh & Ors.*:2023 SCC OnLine SC 1265 and the whole line of precedents rendered by our High Court which were noticed in *Ojjus Medicare Private Limited*. Those decisions have consistently held that in the case of a non-searched entity, it is the date of hand over of material, as opposed to that of the actual search which would constitute the starting point for reckoning the block of six or ten AY’s.



14. However, Section 149(1), as it came to be placed and introduced in the statute book by virtue of Finance Act, 2021, neither effaces nor removes from contemplation the First Proviso to Section 153C(1). Consequently, in cases where a search is conducted after 31 March 2021, the said Proviso would have to be construed and tested with reference to the date when the AO decides to initiate action against the non-searched entity. While in the case of a search initiated after 31 March 2021 there would be no actual hand over of material to the and the whole line of precedents rendered by our High Court which were noticed in Ojjus Medicare Private Limited. Those decisions have consistently held that in the case of a non searched entity, it is the date of hand over of material, as opposed to that of the actual search which would constitute the starting point for reckoning the block of six or ten jurisdictional AO, that does not convince us to revert to Section 153A and hold that the block period is liable to be computed from the date of search. That, in our considered opinion, would amount to rewriting Section 153C which would clearly be impermissible.”

[emphasis added]

3. Following the aforesaid decision, this court in ***Pankaj Jain v. Assistant Commissioner of Income Tax: Neutral Citation No.: 2025:DHC:157-DB***, held that in cases where the search has been conducted after 31.03.2021, the period of limitation under Section 153C of the Act is necessarily to be construed with reference to the date on which the Assessing Officer [AO] initiates actions against a non-searched person. This is on account of the fact that the provisions regarding recording of a satisfaction note by the AO of the searched person and handing over of the records as required under Section 153C of the Act, is no longer applicable after 31.03.2021. However, the period of limitation for the assessments that could be reopened is necessarily to be reckoned in reference to Section 153C of the Act read



with Section 153A of the Act for the purposes of the purposes of the first proviso to Section 149(1) of the Act.

4. In *The Pr. Commissioner of Income Tax - Central-1 v. Ojjus Medicare Pvt. Ltd.*: *Neutral Citation No.: 2024:DHC:2629-DB*, this court had explained that the block period of ten years is required to be reckoned from the end of the assessment year relevant to the financial year in which the satisfaction note is recorded.

5. Since there is no procedure for recording of the satisfaction note, the date on which the AO decides to initiate action – that is, the date on which the notice under Section 148 of the Act is issued – is required to be considered as a point of reference. In the present case, the impugned notice was issued on 31.03.2024. Thus, the block period of ten years is required to be reckoned from the end of the AY 2024-25, which is relevant to FY 2023-24 in which the notice was issued.

6. The learned counsel for the Assessee has handed over a tabular statement setting out the block of ten years that would possibly be covered by a notice issued in FY 2023-24. The said tabular statement is set out below:

Particulars	Particulars
Date of issuance of notice under section 148	31.03.2024
Financial year in which notice is issued	FY 2023-24
Assessment year relevant to financial year in which notice u/s 148 is issued	AY 2024-25
First assessment year starting from end of the relevant assessment year	AY 2024-25



Computation of 10 year block period for which notice under section 153C can be issued	No. of years
AY 2024-25	1
AY 2023-24	2
AY 2022-23	3
AY 2021-22	4
AY 2020-21	5
AY 2019-20	6
AY 2018-19	7
AY 2017-18	8
AY 2016-17	9
AY 2015-16	10

7. It is clear that AY 2014-15 falls beyond the period of ten years which could be reopened pursuant to the impugned notice. In view of the above, the present petition is allowed and the impugned notice and all proceedings initiated pursuant thereto are set aside. Pending application shall also stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 26, 2025/tr