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

\+ W.P.(C) 12502/2023

VRINDA FARMS PRIVATE LIMITED .....Petitioner

Through: Mr. Arvind Kumar, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX .....Respondent

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya, Ms. Priya Sarkar, JSCs & Mr. Utkarsh Tiwari, Adv.

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\+ W.P.(C) 12506/2023

ANIMATE INFRASTRUCTURE AND PROJECTS LIMITED .....Petitioner

Through: Mr. Arvind Kumar, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX .....Respondent

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya, Ms. Priya Sarkar, JSCs & Mr. Utkarsh Tiwari, Adv.

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\+ W.P.(C) 12550/2023

NOUVELLE SECURITIES PRIVATE LIMITED .....Petitioner

Through: Mr. Arvind Kumar, Adv.

versus

DEPUTY COMMISSIONER OF

INCOME TAX .....Respondent

Through: Mr. Debesh Panda, SSC with Mr. Vikramaditya Singh, Ms. Zehra Khan, JSCs, Ms. Anauntta Shankar & Ms. Yashika Gupta, Advs.

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\+ W.P.(C) 12570/2023

HELIOS INFRASTRUCTURE A PROJECTS LIMITE AND .....Petitioner

Through: Mr. Arvind Kumar, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX .....Respondent

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya, Ms. Priya Sarkar, JSCs & Mr. Utkarsh Tiwari, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **03.02.2025**

1. This batch of writ petitions impugn the reassessment action which has been initiated by the respondents with the issuance of notices referable to Section 148 of the **Income Tax Act, 1961**[1] and pertaining to **Assessment Year**[2] 2012-13.

2. The reassessment action was itself trigerred by a search which was undertaken upon Filatex Group on 01 September 2021. This led to the issuance of the impugned notices with it being alleged by the

[1] Act
[2] AY

respondents that the petitioners, who were the non-searched entities, would be liable to be subjected to a reassessment action basis the material which had been gathered in the course of that search.

3. It is in the aforesaid backdrop that learned counsel appearing in support of the writ petitions draws our attention to the First Proviso to Section 149(1) of the Act and which reads as follows:-

> "**149.** (1) No notice under section 148 shall be issued for the relevant assessment year,—
>
> **xxxx** **xxxx** **xxxx**
>
> **Provided** that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if [a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (*b*) of sub-section (1) of this section or section 153A or section 153C, as the case may be], as they stood immediately before the commencement of the Finance Act, 2021:"

4. Tested on the aforesaid provision and which would necessarily entail us examining whether AY 2012-13 would fall within the block of ten years, we take note of the following averments which appear in Para 6 of the additional affidavit which has been filed in WP(C) 12502/2023:-

> "**6.** That applying the ratio of the decisions of the Hon'ble High Court as referred above, to the facts of the case of the Petitioner herein, where both the satisfaction recorded by the Respondent & the impugned Notice issued u/s 148 of the Act falls within the period relevant to A.Y. 2023-24, the calculation of the period of ten assessment years for which the impugned Notice for re-assessment could have been issued on 31.03.2023 is as per the tabular chart below:-

A.Y. 2023-24	1st Year
A.Y. 2022-23	2nd Year
A.Y. 2021-22	3rd Year

A.Y. 2020-21	4th Year
A.Y. 2019-20	5th Year
A.Y. 2018-19	6th Year
A.Y. 2017-18	7th Year
A.Y. 2016-17	8th Year
A.Y. 2015-16	9th Year
A.Y. 2014-15	10th Year

5. It thus becomes apparent that the last year which could have been reopened, if the provisions of Section 153C were kept in mind, would be AY 2014-15.

6. We note that an identical question had arisen for our consideration in **Dinesh Jindal vs. Assistant Commissioner of Income Tax**[3] and where we had, on consideration of the relevant statutory scheme, held as follows:-

> "**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.

[3] 2024 SCC OnLine Del 4230

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 2013-2014.

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."

7. Accordingly, and for the reasons assigned in *Dinesh Jindal,* we find ourselves unable to sustain the reassessment action. This since, undisputedly, AY 2012-13 falls outside the maximum block of ten years.

8. We, accordingly, allow the instant writ petitions and quash the impugned notices dated 31 March 2023 issued under Section 148 of the Act.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 3, 2025/kk