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

% *Date of Decision: 20.05.2025*

\+ **W.P.(C) 17394/2024 and CM APPL. 74046/2024 & 74047/2024**

PANCH TATVA PROMOTORS PRIVATE LIMITED .....Petitioner

Through: Mr Somil Agarwal and Mr Dushyant Agrawal, Advocates.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 25 DELHI AND ORS. .....Respondents

Through: Mr Siddhartha Sinha, Advocate.

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

VIBHU BAKHRU, J. (*Oral*)

1. The petitioner has filed the present petition, *inter alia*, impugning a notice dated 28.08.2024 [**the impugned notice**] issued under 153C of the Income Tax Act, 1961 [**the Act**] as well as the proceedings for re-assessment of the petitioner's income in respect of Assessment Year (AY) 2021-22.

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 2021-22. The note indicates that during the course of the search, a pen-drive was found, which contained certain information regarding transactions entered into by HGEL (High Ground Enterprises Ltd.) with companies that had provided accommodation entries through generation of bogus invoices.

4. In so far as the petitioner is concerned, information allegedly found was regarding a purported transaction of ₹70,78,680/-, which was allegedly supported by bogus invoice. However, the said transaction pertains to the Financial Year 2014-15. Paragraph 13 of the satisfaction note is set out below:

> "13. Further, during the search action, several digital devices were cloned and had been annexurised. In one red SanDisk pen drive which was cloned into the Hard-Disk marked as Annexure A3, the tally data of entities had been maintained. The Managing director of High Ground Enterprises Limited i.e. Sandeep Ramkrishna Arora admitted that transactions between High Ground Enterprise Limited and companies may not be 100 percent genuine. The pen drive contains all detailed transactions done by HGEL with the companies who may provided accommodation entries through generation of bogus invoices from FY 2014-15 to FY 2020-21.

Details of transaction of assessee to whom bogus service has been provided by HGEL				
S.NO.	**Name of the Assessee**	**PAN**	**FY**	**Amount**
1	Panch Tatva Promoters Pvt Ltd	AAFCP6505P	2014-15	70,78,680
			TOTAL	**70,78,680**"

5. It is clear from the above that the information provided in the

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satisfaction note dated 28.08.2024 entered by the AO of the assessee could not possibly lead to the conclusion that the income of the Assessee for AY 2021-22 had escaped assessment. The pen drive found cannot be considered as containing any incriminating material pertaining to the petitioner in respect of AY 2021-22. Thus, the petitioner's assessment for the said year could not be reopened under Section 153C of the Act.

6. 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 decision of this Court in ***Saksham Commodities Ltd. v. Income Tax Officer Ward 22 (1), Delhi & Anr.: 2024:DHC:2836-DB.***

7. It is relevant to set out paragraph 68 of the said decision 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]

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 2021-22 is set aside.

9. The pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 20, 2025
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Click here to check corrigendum, if any