

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER
AND SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No. 6398/Del/2013
AY : 2003-04**

**ITA No. 6399/Del/2013
AYs : 2004-05**

**ITA No. 6400/Del/2013
AYs : 2005-06**

**ITA No. 6401/Del/2013
AYs : 2006-07**

**ITA No. 6402/Del/2013
AYs : 2007-08**

**ITA No. 6403/Del/2013
AYs : 2008-09**

DCIT, C.C. 21 vs. Satkar Motors Pvt.Ltd.
Room No.344 B 10, Shivalik
E 2, ARA Centre Malviya Nagar
Jhandewalan Extension New Delhi
New Delhi 110 055

PAN: AAJCS 3351 G

A N D

**Cross Objection No.359/Del/2014
(In ITA 6398/Del/13)
A.Y. 2003-04**

**Cross Objection No. 360/Del/14
(In ITA 6399/Del/13)
A.Y. 2004-05**

**Cross Objection No. 361/Del/14
(In ITA 6400/Del/13)
A.Y. 2004-05**

Cross Objection No. 362/Del/14
(In ITA 6401/Del/13)
A.Y. 2005-06

Cross Objection No. 363/Del/14
(In ITA 6402/Del/13)
A.Y. 2006-07

Cross Objection No. 364/Del/14
(In ITA 6403/Del/13)
A.Y. 2007-08

Satkar Motors Pvt.Ltd.
New Delhi

vs. DCIT, CC 21
New Delhi

(Appellant)

(Respondent)

Appellant by : Sh, Kartar Singh, CIT, D.R.

Respondent by : Sh. Kapil Goyal, Adv.

ORDER

PER BENCH

All these appeals are filed by the Revenue directed against the order of the Ld.CIT(A), New Delhi dt. 9th September, 2013 for the A.Y. 2003-04 to the A.Y. 2008-09. As the issues arising in all these appeals are common, for the sake of convenience, they are heard together and disposed of by way of this common order.

2. Facts in brief:- The assessee belongs to the Thapar Group of cases. A search and seizure operation u/s 132 of the Act was carried out in the case of Shri BK Dhingra, Smt.Punam Dhingra, Director and M/s Madhusudan Buildcom Pvt.Ltd. on 20.10.2008 and during the course of search, certain documents allegedly belonging to the assessee were seized. On the basis of these documents so found, proceedings were initiated in the

case of the assessee company u/s 153C of the Income Tax Act, 1961 (the Act) r.w. S.153A of the Act.

3. In the Cross Objections, the assessee challenged inter alia the legality and the validity of the proceedings initiated u/s 153C of the Act. As these are jurisdictional matters, we, at the outset adjudicate the same.

4. The contention of the assessee is that the mandatory satisfaction note, which is to be recorded by the A.O. of the searched party during the course of the assessment proceedings of the search party for assuming jurisdiction u/s 153C of the Act by the A.O. of the assessee, was not recorded. In support of the same, replies of the Dy.CIT Circle New Delhi dt. 10.6.2013, in response to an application seeking information under the RTI Act, 2005 was cited.

4.1. We find that the Dy.CIT, Central Circle 17, New Delhi has in F.No.DCIT/CC-17/RTI/2013-14/22 dated 10th June, 2013 a letter addressed to Shri BK Dhingra, Smt.Punam Dhingra and M/s Madhusudan BuildCon P.Ltd. and in the case of Shri Narendra Singh, Director, M/s Mayank Traders Pvt.Ltd. and to Shri Prabhas Swain, Director, M/s Horizons Solutions Integration Pvt. Ltd. dt. 28.6.2013/02.07.2013 in F.No. DCIT/CC-17/RTI/2013-14/134/135 has clearly stated as follows.

“It is noticed that there is no ‘satisfaction note’ recorded/available of other entities.”

4.2. This reply proves that no satisfaction note has been recorded by the A.O. of the searched party i.e. Thapar group. The Ld.D.R. could not controvert these factual submissions of the assessee. He could not produce proof to demonstrate that the satisfaction has been recorded by the A.O. of the search party. Thus, the A.O. who is having the jurisdiction of the search party, has admittedly not recorded satisfaction note, as mandated by law enabling the A.O. of the assessee to assume jurisdiction u/s 153C of the Act. The Ld.Counsel for the assessee submitted that all these assessments

have to be quashed on the sole ground of satisfaction not being recorded by the Assessing Officer of the searched party. He relied on the following judgements.

- (i) Friends Clearing Agency P.Ltd. dt. 4.1.2011 (Del)
- (ii) Raj Enterprises vs. ITO (1995) 51 TTJ 408 (UP)
- (iii) Monarch Foods P.Ltd. vs. ACIT (1996) 54 TTJ 405 (Ahmd.)
- (iv) Seasons Catering Services P.Ltd. vs. DCIT (Del)
- (v) Rajat Telecom 120 ITD 48 (Indore Bnch of ITAT)
- (vi) M/s Epcot Securities P.Ltd. ITA no.395/M/2009 dt. 18.3.2011 (Mumbai Bench of ITAT)
- (vii) Menu Chauhan ITA/Del/1886/2010 dt. 29.10.2010 (Delhi Bench of ITAT)
- (viii) Pearl Farben Chem P.Ltd. ITA no.1122/Mum/2010 dt. 12th Nov.2010 (Mumbai Bench of ITAT)
- (ix) Delhi High Court, GIVO Ltd., ITA no.941/2010 dt. 12.7.2010
- (x) Coca Cola India (P) Ltd. Vs. DCIT, ITAT, Pune A Bench ITA 1257/Pn/2003, A.Y. 1997-98 dt. 30.6.2008 30 ITR Pune (Trib) 149
- (xi)Equivalent citations (2006) 103 TTJ Bang 329 Bench Digital Equipment India Ltd. Vs DCIT dt. 25.11.2005.

4.3. We find that the Hon'ble Jurisdictional High Court in ITA nos. 509, 510 and 513/2015 in the case of P.R.CIT-Central II vs. Aakash Arogya Mandir P.Ltd. vide its judgement dt. 28th July,2015 has at paras 7 and 8 held as under.

“7. Secondly, as far as the facts of the present casea re concerned, the Revenue has placed no material to challenge the following factual finding recorded by the ITAT in paras 5, 7.1 and 8 of the impugned order.

“5. Information obtained by Ld.A.R. from A.O. of searched persons as placed at paper book pages 34-38 clearly mentions that the satisfaction note with respect to other entities was not available/recorded by A.O. of searched person and further on the direction of Ld.D.R., A.O. Central Circle-17, written to Ld.D.R. vide letter dt. 9.9.2014 wherein he had mentioned to have enclosed satisfaction note recorded by the A.O. of such other person. The copy of satisfaction note enclosed with the letter was prepared by A.O. of other entities who had assumed jurisdiction by invoking provisions of S.153 C.....”

7.1. We observe that on the basis of replies obtained by assessee under RTI and on the basis of reply of A.O. Central Circle 21, to Ld.D.R. the satisfaction note dated 10.9.2010 is the satisfaction note prepared by A.O. of

the other persons. This fact is further fortified from the fact that on the same day of recording satisfaction on 10.9.2010, the AO had raised notices, u/s 153C of the Act as placed in paper book page 1.

8. The Revenue has not placed any material to dispute the factual finding of the ITAT that the requirement of the law explained by this Court in Pepsi Foods regarding the recording of satisfaction by the AO even in respect of the searched person was not fulfilled. Consequently, the fact that it was the same AO both for the searched person and the assessee makes no difference to the consequence of non-compliance with the legal requirement regarding the recording of satisfaction. The Court also agrees with the ITAT that even if the AO were the same, satisfaction would have to be recorded separately qua the searched person and the assessee.”

4.4. Respectfully following the Hon'ble Jurisdictional High Court judgements cited above, we quash all the assessment orders and dismiss all the appeals filed by the Revenue. All the Cross Objections of the assessee are to be allowed.

5. In the result the Cross Objections are allowed and all the Revenue appeals are dismissed.

Order pronounced in the Open Court on 29th October, 2015.

Sd/-

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Sd/-

**(J. SUDHAKAR REDDY)
ACCOUNTANT MEMBER**

Dated: 29th October, 2015

- *Manga*

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

TRUE COPY

By Order,

ASSISTANT REGISTRAR