

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri S.Rifaur Rahman, Accountant Member**

ITA No.	Appellant	Respondent	A.Y
921/Hyd/2014	T.Rana Pratap Singh, Hyderabad PAN: ADOPR 1301 E	DCIT, Central Circle 7 Hyderabad	2003-04
922/Hyd/2014	-do-	-do-	2007-08
923/Hyd/2014	-do-	-do-	2008-09
924/Hyd/2014	Tej Pratap Singh, Hyderabad PAN:ABXPT 6791 R	-do-	2003-04
925/Hyd/2014	-do-	-do-	2007-08
926/Hyd/2014	-do-	-do-	2008-09
927/Hyd/2014	Shamsher Singh, Hyderabad PAN: CIJPS 8646 D	-do-	2003-04
928/Hyd/2014	-do-	-do-	2007-08
929/Hyd/2014	-do-	-do-	2008-09
930/Hyd/2014	Shyam Sunder Singh, Hyderabad PAN: BTGPS 2102 F	-do-	2003-04
931/Hyd/2014	-do-	-do-	2007-08
932/Hyd/2014	-do-	-do-	2008-09
865/Hyd/2014	DCIT central Circle -7 Hyderabad	T.Rana Pratap Singh & Others (AOP) Hyderabad	2003-04
867/Hyd/2014	-do-	-do-	2007-08
868/Hyd/2014	-do-	-do-	2008-09

For Assessee : Shri Mohd. Afzal
For Revenue : Shri K. Gopala Krishna, DR

Date of Hearing: 18.01..2018
Date of Pronouncement: 24.01.2018

ORDER

Per Bench.

ITA Nos. 921 to 932/Hyd/2014 are the appeals filed by the respective assessee's for the A.Ys 2003-04, 2007-08 and 2008-09 respectively and ITA Nos.865, 867 & 868/Hyd/2014 are

the cross appeals filed by the Revenue for the A.Ys 2003-04, 2007-08 and 2008-09 in the case of Shri T.Rana Pratap Singh.

2. There was a search and seizure operation u/s 132(1) of the I.T. Act in the case of one Shri B. Ramdas Goud and D.Raghupathy Goud at Hyderabad on 15.09.2008. During the course of search, certain documents, allegedly belonging to the assessee Shri Rana Pratap Singh, and other members of his family were found. In view of the same, the AO issued notices u/s 153C of the Act on 23.07.2009 to the assessee and his family members to file their returns of income. Based on the documents seized during the course of search at the premises of Shri Ramdas Goud, the assessments were completed in the case of the assessees.

3. Aggrieved by the additions made by the AO, the assessees preferred appeals before the CIT (A), who partly allowed the same. Against the confirmation of the certain additions made by the CIT (A), the assessees are in appeals before us, while against the partial relief granted by the CIT (A) in the case of Shri Rana Pratap Singh, the Revenue is in cross appeal before us. Since the facts and circumstances in the group cases are the same and the grounds of appeals arising therefrom are also the same, we are referring to the grounds of appeal raised in the appeal of Shri Rana Pratap Singh. The following are the grounds of appeal:

“1. The order of the learned Commissioner of Income Tax (Appeals) is against law, and probabilities of case.

2. The learned Commissioner of Income Tax erred in holding that the learned Assessing officer has rightly invoked jurisdiction u/s 153C inspite of submitting that no books of accounts or documents referred in section 153C, were found/seized belonging to the assessee during the course of search at the premises of Sri B.Ramdas Goud/D.Raghupathy Goud.

3. The learned Assessing Officer erred in holding that the assessment has been rightly carried out in the hands of appellant in the capacity of individual.

4. The learned Commissioner of Income Tax erred in holding that the land which is agricultural in nature and situated beyond 8 kilometers from the Hyderabad Municipality is a capital asset as provided in section 2(14) of the IT Act and further erred in holding that Rs.6,66,660/- is as a taxable receipt”.

4. In addition to the above, vide letter dated 13.09.2017, the assessee has raised the following additional grounds of appeal along with an application for admission of the grounds:

“1. The learned CIT (A) ought to have appreciated that satisfaction as enjoined in section 153C of the I.T. Act, 1961 that the appellant had undisclosed income, on account of material found in the case of searched person belonging to the assessee and not belonging to searched person, not having been recorded by the AO in the case of B. Ramdas Goud who was subjected to proceedings u/s 132 of the I.T. Act and therefore, the order u/s 143(3) r.w.s. 153C in the case of appellant for the A.Y 2003-04 is without jurisdiction and therefore, wholly unsustainable in law and facts”.

5. In the application, it is submitted that for initiating the proceedings under section 153C of the Act, the AO of the person searched has to record a satisfaction that the documents found in the course of search belonged to the persons other than those searched and thereafter transfer the file to the AO of the other persons. It is submitted that the Hon'ble Bench in the case of Shri T.Sukender Reddy Vs. Department of Income Tax in their order 691 to 697 /Hyd/2015 and 676 & 677 and 698 to 701/Hyd/2015, 15.02.2016, has examined whether there was such a satisfaction note by the AO of Shri Ramdas Goud for initiating 153C proceedings in the case of Shri T. Sukhender Reddy & others and has quashed the assessment made u/s 153C of the Act on the ground that there was no satisfaction recorded. In view of the same, the assessee is now seeking to file the additional ground of appeal and sought admission of the same. Copy of the order of the Tribunal in the case of Shri T. Sukender Reddy (cited Supra) is also filed before us. Since similar issue has already been considered and adjudicated by the Tribunal in the case of the very same search, we deem it fit and proper to admit the same and adjudicate the issue as under.

6. In the case of Shri T.Sukender Reddy (Supra), the Coordinate Bench of the Tribunal has considered that there was a search and seizure operation in the case of Shri Ramdas Goud and Shri D. Raghupathy Goud on 15.09.2008 and after perusal of the record and after recording the admission of the ITO that the record does not contain any forwarding letter from the AO of Shri Ramdas Goud, recording his satisfaction as required u/s 153C of the Act before forwarding the file to the Officer-in-charge of Shri T.

Sukender Reddy, has quashed the assessment. For coming to this conclusion, the Tribunal has followed the decision of the jurisdictional High Court in the case of CIT vs. Shetty's Pharmaceuticals & Biologicals Ltd (57 Taxmann.com 282) A.P, wherein the Hon'ble High Court recorded that recording a satisfaction is a pre-condition for invoking the jurisdiction u/s 153C of the Act and in the absence of following such procedures, the assessment u/s 153C deserved to be quashed.

7. In the case before us also, we had directed the production of the assessment record and the learned DR submitted that satisfaction note of the AO of the person searched i.e. Shri Ramdas Goud for remitting the file to the AO of the assessee is not available. Since the facts and circumstances of the case before us are exactly the same and there is no satisfaction recorded by the AO of the person searched that, income relating to seized documents belongs to assessee herein, we are inclined to quash the assessment made u/s 153C for all the A.Ys before us. Therefore, additional grounds of appeals in ITA Nos. 92 to 932/Hyd/2014 are allowed and the assessments are quashed. The other grounds are not adjudicated as the assessment itself has been quashed.

8. Coming to the Revenue's appeals, we find that the assessments for the A.Y 2003-04, 2007-08 and 2008-09 have been quashed by our order even dated in ITA Nos.921 to 923/Hyd/2014 in the case of Shri Rana Pratap Singh. Therefore,

when the assessments themselves are quashed, the Revenue's appeals become infructuous and are accordingly dismissed.

9. In the result, appeals filed by the Assesseees are allowed and the appeals filed by the Revenue are dismissed.
Order pronounced in the Open Court on 24th January, 2018.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 24th January 2018.
Vinodan/sps

Copy to:

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- 2 Dy. Commissioner of Income Tax, Central Circle 7, Aayakar Bhavan, Hyderabad
- 3 CIT (A)-Guntur
- 4 CIT – Central, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order