

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'D' : NEW DELHI)
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.1095/Del./2015
(ASSESSMENT YEAR : 2009-10)**

**ITA No.1096/Del./2015
(ASSESSMENT YEAR : 2010-11)**

**ITA No.1097/Del./2015
(ASSESSMENT YEAR : 2011-12)**

**ITA No.1098/Del./2015
(ASSESSMENT YEAR : 2012-13)**

Shri Jagjit Singh,
C/o M/s. Satish Aggarwal & Associates
4/5B, Asaf Ali Road, 1st Floor,
New Delhi – 110 002.

vs. ACIT, Central Circle 21,
New Delhi.

(PAN : AFTPS0204A)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Satish Aggarwal, Advocate

REVENUE BY : Shri J.K. Mishra, CIT DR

Smt. Naina Soin Kapil, Senior DR

Date of Hearing : 04.09.2019

Date of Order : 01.10.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Since common questions of facts and law have been raised in the aforesaid appeals, the same are being disposed off by way of consolidated order to avoid repetition of discussion.

2. Appellant, Shri Jagjit Singh (hereinafter referred to as the 'assessee') by filing the present appeals sought to set aside the impugned orders dated 23.12.2014 passed by the Commissioner of Income - tax (Appeals) - XXVI, New Delhi qua the assessment years 2009-10, 2010-11, 2011-12 & 2012-13 respectively on the identical grounds except the difference in amount of addition inter alia that :-

“(1) That the order of the Learned CIT (A) is arbitrary biased, bad in law and facts of the case in so far as it upholds the assessment order passed by the Assessing Officer.

(2) That the Learned CIT (A) has grossly erred in summarily brushing aside the contention and the submission of the appellant while upholding the assessment order.

(3) That the Learned CIT (A) has grossly erred in confirming the action of the learned assessing officer in assuming jurisdiction under section 153C read with section 153A of the Act which is bad in law.

(4) That the Learned CIT (A) has grossly erred in not annulling the assessment order passed by the assessing officer under section 153C which is bad in law and void ab-initio.

(5) That the Learned CIT (A) has grossly erred in confirming the addition deposited in cash as unexplained cash credit in bank accounts.”

Apart from the aforesaid grounds, following ground nos.(3) & (4) have been separately raised in AY 2012-13 :-

“(3) That the Learned CIT (A) has grossly erred in confirming the action of the learned assessing officer in assuming jurisdiction under section 153C read with section 153A of the Act which is bad in law.

(4) That the Learned CIT (A) has grossly erred in not annulling the assessment order passed by the assessing officer under section 143 (3) which is bad in law and void ab-initio.”

3. Briefly stated the facts necessary for adjudication of the issues at hand raised in all the aforesaid appeals are : Assessee is into the business of builders and developers. On the basis of search operation carried out at the business

premises of M/s. ABW Group of cases as well as residential premises of their Directors, certain documents/ books of account were seized. Assessing Officer (AO) of the searched person recorded satisfaction note dated 23.01.2014 on the basis of documents seized stating therein that certain documents belonging to assessee company were seized and provisions contained under section 153C of the Income-tax Act, 1961 (for short 'the Act') are attracted. Thereafter, AO of the person other than searched person examined the documents seized and recorded a fresh satisfaction note dated 23.01.2014 by recording satisfaction that said documents belonged to assessee company and thereby issued notice dated 23.01.2014 u/s 153C read with section 153A of the Act for AYs 2006-07 to 2011-12 and notice u/s 143 (3) for AY 2012-13 on the basis of satisfaction note dated 20.01.2014 prepared by AO of M/s. ABW Infrastructure (P) Ltd. i.e. searched person, requiring the assessee to file the return of income for the aforesaid assessment years within 15 days. Assessee filed returns. Then notice u/s 142 (1)/143 (2) along with detailed questionnaire was issued. For AYs 2009-10, 2010-11 & 2011-12, assessment order framed u/s 153C read with section 153A and in AY 2012-13, assessment order u/s 143 (3) has been framed.

4. From the bank statement, AO noticed that there has been heavy cash deposit in the account of the assessee. Declining the contentions raised by the assessee, AO made addition of Rs.73,45,000/-, Rs.51,50,000/-, Rs.84,70,000/-

& Rs.70,10,000/- for AYs 2009-10, 2010-11, 2011-12 & 2012-13 respectively on account of unexplained cash credit u/s 68 of the Act.

5. Assessee carried the matter by way of appeals before the Id. CIT (A) who has confirmed the additions by dismissing the appeals. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeals.

6. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

7. Ld. AR for the assessee challenging the impugned order raised jurisdictional issue inter alia that AO has no jurisdiction to frame assessment u/s 153C r/w section 153A and as such, the assessment record is bad in law and void ab initio; that no incriminating material has been unearthed pertaining to assessee having reflection on the income of the assessee and relied upon the judgments of *Hon'ble Delhi High Court in CIT vs. RRJ Securities Ltd. 380 ITR 61 (Delhi), ARN Infrastructure India Ltd. vs. ACIT 394 ITR 569 (Delhi) & PCIT vs. Sarwar Agency (P) Ltd. 397 ITR 400 (Delhi)*.

8. However, on the other hand, Id. DR for the Revenue in order to repel the arguments addressed by the Id. AR for the assessee filed written submissions which are extracted for ready perusal as under :-

“2. In this case, search was conducted in the ABW Infrastructure Ltd. and Sh. Atul Bansal, Director of the said company and other related group concerns on 09.11.2011. The SMS transcriptions were seized as per Annexure-7. On page 2 and 3 of the assessment order for AY 2011-12 the details of transcription pertaining to the assessee are mentioned. Further, statement of Sh. Atul Bansal was also recorded on 9/10.11.2011 u/s 132(4) of the Act. Specific questions (Q 31 & 32- page 2 of the assessment order) was asked from Sh. Atul Bansal in respect of transactions contained in those SMS exchanges with the assessee Sh. Jagjit Singh. Those transactions contained transfer of funds between the assessee and ABW Developers Pvt. Ltd., Atul Bansal and group concerns. Those transactions contained in SMS exchanges were further investigated by the AO.

3. The statement of the assessee was also recorded u/s 131 on 15.02.2012 by the AO in which inter alia questions pertaining to transfer of funds were asked. The investigation of source of transfer/receipt of funds necessitated examination of bank accounts of the assessee also. The conspectus of investigation resulted into addition made by the AO.

4. In this regard, reliance is placed on the decision of the Hon'ble Supreme Court in the case of CIT Vs. Mukundray K. Shah [2007] 290 ITR 433 (SC). In this case, a diary was seized a statement of the assessee was recorded. The diary indicated investment of 26.35 crore by the assessee in RBI Relief Bonds. The AO made subsequent investigation and deemed dividend of Rs.5.99 crore was added u/s 2(22)(e). In this case, the Hon'ble Kolkata High Court held that since all the transactions were disclosed in the Returns, the case of the assessee did not fall under chapter XIVB of the Act. Before the Hon'ble SC, it was argued that since no incriminating material was found in the course of search, the AO could not invoke section 2(22)(e).

5. In para 12 of the order, the Hon'ble SC held that the diary was identified in the course of search. It was held that-

"That assessment originated on account of a search conducted under section 132(1) of the Act. In that search the diary "ML-20" was identified. That identification was the starting point of connected enquiries resulting in the detection of undisclosed income of Rs. 5.99 crores. In other words, undisclosed income, in the nature of deemed dividend, did not arise from any scrutiny proceedings, tax evasion petitions, surveys, information received from external agency, etc. The undisclosed income was detected by the Assessing Officer wholly and exclusively as a result of a search and, therefore, the Department was right in invoking the provisions of Chapter XIV-B."

6. *In this case also, there was identification of SMS transcripts between the assessee and Sh. Atul Bansal. That identification was the starting point of connected enquiries resulting in the detection of undisclosed income. The nature of transaction recorded in SMS exchanges was exchange of funds and connected enquiries were made as regards source/receipt of funds in bank accounts and otherwise. Therefore, the AO was justified in making additions.*

7. *As regards proceedings u/s 153C, reliance is placed on the following decisions-*

- (i) *PCIT Vs. Super Malls Pvt. Ltd. [2016] 393 ITR 557 (Delhi)*
- (ii) *Ganpati Fincap Services Pvt. Ltd. Vs. CIT [2017] 395 ITR 692 (Delhi)*
- (iii) *SSP Aviation Ltd. Vs. DCIT [2012] 346 ITR 177 (Delhi)*
- (iv) *PCIT Vs. Nau Nidh Overseas Pvt. Ltd. [2017] 394 ITR 753 (Delhi)*

9. Ld. AR for the assessee further contended that the satisfaction note dated 20.01.2014 prepared by AO of M/s. ABW Infrastructure (P) Ltd. and satisfaction note dated 23.01.2014 prepared by the AO of the assessee, available at pages 3 & 4 of the paper book, are verbatim same and as such, satisfaction note recorded in the case of the assessee fails to reflect the basis of satisfaction of the AO to point out as to how the documents allegedly belonging to the assessee belongs to him and are incriminating in nature.

10. For ready perusal, satisfaction note dated 20.01.2014 prepared by the AO of M/s. ABW Infrastructure (P) Ltd. and satisfaction note dated 23.01.2014 prepared by the AO of the assessee are extracted for ready perusal as under :-

“M/s. ABW Infrastructure Limited

PAN AAECA54664

Satisfaction note for initiating proceedings u/s 153C read with Section 153A of Income Tax Act, 1961 in the case of persons other than the person search M/s. ABW Infrastructure Ltd. – PAN : AAECA54664 in which case action U/s 132 was conducted on 9.11.2011

20.01.2014 Action u/s 132 of the Income Tax Act, 1961 was carried out in the case of M/s. Infrastructure Ltd. on 09.11.2011. This action was carried out at the business premises of M/s ABW Infrastructure Ltd. and at the residential premises of the Atul Bansal, Director of this company. During the course of search action various books of account and documents etc were found and seized.

While examining the seized material of ABW Infrastructure Pvt. Ltd. and Shri Atul Bansal where action u/s 132 of the Income Tax Act, 1961 was taken on 09.11.2011, it was found that following documents belonging to Sh. Jajit Singh were found :

- 1. Transcript and digital copy of SMS seized as per Annexure A-7 of the panchnama prepared.***
- 2. Transaction with M/s ABW Infrastructure limited as per the Seized computerized data as per Annexure A-16***

A satisfaction to this effect was recorded by the AO and kept in the file of Shri Jajit Singh.

I have examined the above noted seized documents and I find that those documents belong to Sh Jajit Singh - PAN: AFTPS0204A. After examining the contents of these documents I am satisfied that proceedings u/s 153C read with Section 153A of the Act are required to be initiated in this case. Accordingly, notices u/s 153C read with section 153A of the Act has been issued for the assessments years 2006-07 to 2011-12.”

“Satisfaction note for initiating proceedings u/s 153C read with Section 153A of Income Tax Act, 1961 in the case of Shri Jajit Singh, PAN : AFTPS0204A

23.01.2014 Action u/s 132 of the Income Tax Act, 1961 was carried out in the case of M/s. Infrastructure Ltd. on 09.11.2011. This action was carried out at the business premises of M/s ABW Infrastructure Ltd. and at the residential premises of the Atul Bansal, Director of this

company. During the course of search action various books of account and documents etc were found and seized.

Satisfaction note of Jagjit Singh

While examining the seized material of ABW Infrastructure Pvt. Ltd. and Shri Atul Bansal where action u/s 132 of the Income Tax Act, 1961 was taken on 09.11.2011, it was found that following documents belonging to Sh. Jajit Singh were found :

- 1. Transcript and digital copy of SMS seized as per Annexure A-7 of the panchnama prepared.*
- 2. Transaction with M/s ABW Infrastructure limited as per the Seized computerized data as per Annexure A-16*

A satisfaction to this effect was recorded by the AO assessing the person(s) searched and kept in the file of said person searched viz. ABW Infrastructure Pvt. Ltd. and Shri Atul Bansal.

I have examined the above noted seized documents and I find that those documents belong to Sh Jajit Singh - PAN: AFTPS0204A. After examining the contents of these documents I am satisfied that proceedings u/s 153C read with Section 153A of the Act are required to be initiated in this case. Accordingly, notices u/s 153C read with section 153A of the Act are being issued for the assessments years 2006-07 to 2011-12.”

11. When we examine aforesaid two satisfaction notes, one recorded in the case of searched person and another in the case of such other person, assessee in this case, referred in provisions contained u/s 153C(1), it is undisputed fact on record that the satisfaction note of the searched person is dated 20.01.2014 and in such circumstances, the date of handing over the seized material to the AO of the present assessee is to be treated the date of search. In other words, before 20.01.2014, the incriminating material, if any, pertaining to the assessee was required to be handed over to the AO of the assessee. In these circumstances, six years period is to be reckoned with from the date of handing over of the documents to the AO of the assessee i.e.20.1.2014 and as such, AO was

empowered to issue the notices u/s 153C for AYs 2008-09 to 2013-14 only that too subject to the unearthing of incriminating material having reflection on the income of the assessee..

12. Hon'ble jurisdictional High Court in case of *CIT vs. RRJ Securities Ltd. (2015) 380 ITR 612 (Delhi)* held that :

“In terms of proviso to section 153C of the Act, a reference to the date of the search under the second proviso to section 153A of the Act has to be construed as the date of handing over of assets/documents belonging to the assessee (being the person other than the one searched) to the AO having jurisdiction to assess the said Assessee.”

13. Now, when we examine the satisfaction note recorded by the AO in case of other person i.e. assessee in this case, following two documents allegedly belonging to the assessee were found :-

“1. Transcript and digital copy of SMS seized as per Annexure A-7 of the panchnama prepared.

2. Transaction with M/s ABW Infrastructure Limited as per the Seized computerized data as per Annexure A-16”

14. On the basis of aforesaid two documents, AO recorded his satisfaction as under :-

“I have examined the above note seized documents and I find that these documents belong to Sh. Jagjit Singh – PAN : AFTPS0204A. After examining the contents of these documents I am satisfied that proceedings u/s 153C read with section 153A are required to be initiated in this case. Accordingly, notice u/s 153C read with section 153A of the Act has been issued for the assessment years 2006-07 to 2011-12.

15. When we examine the satisfaction note dated 20.01.2014 prepared by the AO in case of searched person, AO of searched person recorded the fact

that, “*transcript and digital copy of SMS as per Annexure A-7 of Panchnama and transaction with M/s. ABW Infrastructure (P) Ltd. as per seized computerized data referred in Annexure A-16 belongs to Mr. Jagjit Singh, assessee in this case.*”

16. Now, bare perusal of the satisfaction note does not indicate as to how and under what circumstances AO of the assessee made himself satisfied that the aforesaid alleged documents belong to assessee and how they are incriminating in nature. Furthermore, AO has nowhere recorded the fact that as to how the aforesaid documents do not belong to M/s. ABW Infrastructure (P) Ltd. and how and under what circumstances, the same do not belong to searched person rather mechanically recorded in the satisfaction note that these aforesaid documents belong to assessee.

17. Hon’ble Delhi High Court in the case of *Pepsico India Holdings Private Ltd. vs. ACIT 370 ITR 295* discussed the issue as to how the liability of such other person, the assessee in this case, can be fastened on the basis of seized documents from searched person, the operative part of which is extracted for ready perusal as under :-

“4. Before we examine these writ petitions in detail it would be pertinent to point out that recently in the case of Pepsi Foods Pvt. Ltd. Vs. Assistant Commissioner of Income Tax, WP (C) No.415/2014 and other connected matters, this court had occasion to examine the very provisions which are under consideration in the matters before us. In the judgement delivered on 07.08.2014 in the case of Pepsi Foods Pvt. Ltd.(supra), after examining the provisions of Sections 153C, 132(4A)(i) & 292C(1)(i) of the said Act, this Court had observed as under:

“6. On a plain reading of Section 153C, it is evident that the Assessing Officer of the searched person must be “satisfied” that inter alia any document seized or requisitioned “belongs to” a person other than the searched person. It is only then that the Assessing Officer of the searched person can handover such document to the Assessing Officer having jurisdiction over such other person (other than the searched person). Furthermore, it is only after such handing over that the Assessing Officer of such other person can issue a notice to that person and assess or re-assess his income in accordance with the provisions of Section 153A. Therefore, before a notice under Section 153C can be issued two steps have to be taken. The first step is that the Assessing Officer of the person who is searched must arrive at a clear satisfaction that a document seized from him does not belong to him but to some other person. The second step is –after such satisfaction is arrived at –that the document is handed over to the Assessing Officer of the person to whom the said document “belongs”. In the present cases it has been urged on behalf of the petitioner that the first step itself has not been fulfilled. For this purpose it would be necessary to examine the provisions of presumptions as indicated above. Section 132(4A)(i) clearly stipulates that when inter alia any document is found in the possession or control of any person in the course of a search it may be presumed that such document belongs to such person. It is similarly provided in Section 292C(1)(i). In other words, whenever a document is found from a person who is being searched the normal presumption is that the said document belongs to that person. It is for the Assessing Officer to rebut that presumption and come to a conclusion or “satisfaction” that the document in fact belongs to somebody else. There must be some cogent material available with the Assessing Officer before he/she arrives at the satisfaction that the seized document does not belong to the searched person but to somebody else. Surmise and conjecture cannot take the place of “satisfaction”.

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“11. It is evident from the above satisfaction note that apart from saying that the documents belonged to the petitioner and that the Assessing Officer is satisfied that it is a fit case for issuance of a notice under Section 153C, there is

nothing which would indicate as to how the presumptions which are to be normally raised as indicated above, have been rebutted by the Assessing Officer.

Mere use or mention of the word “satisfaction” or the words “I am satisfied” in the order or the note would not meet the requirement of the concept of satisfaction as used in Section 153C of the said Act. The satisfaction note itself must display the reasons or basis for the conclusion that the Assessing Officer of the searched person is satisfied that the seized documents belong to a person other than the searched person. We are afraid, that going through the contents of the satisfaction note, we are unable to discern any “satisfaction” of the kind required under Section 153C of the said Act.”

18. When we examine the facts of the present case in the light of the ratio laid down by Hon'ble High Court in cases of *CIT vs. RRJ Securities Ltd. and Pepsico India Holdings Private Ltd. vs. ACIT* (supra), it leads to the irresistible conclusion that firstly, AO of the searched person, namely, M/s. ABW Infrastructure (P) Ltd. must arrive at a categoric satisfaction that a document seized from him does not belong to him (searched person) but to some other person and second requirement is after such satisfaction is arrived at that the document is handed over to the person to whom the said document belongs.

19. In the instant case, both the aforesaid conditions have not been satisfied by the AO of the searched person and then AO of the other person, the assessee in this case, has mechanically proceeded to initiate the proceedings u/s 153C and 153A by merely recording the word satisfaction that the seized documents belong to assessee. In other words, it is difficult to make out from the

satisfaction note recorded in case of searched person and in case of other person, the requisite satisfaction as required u/s 153C of the Act. We are constrained to record that both the satisfaction note dated 20.01.2014 and 23.01.2014 recorded in case of searched person and in case of such other person are identical and are not in consonance with the provisions contained u/s 153C of the Act. Furthermore, the AO has also failed to conclude as to how the alleged documents were incriminating in nature in order to assess the income of the assessee u/s 153C of the Act. So, in the absence of existence of any incriminating material, power u/s 153C cannot be invoked.

20. Hon'ble Supreme Court in case of *CIT vs. Sinhgad Technical Education Society 397 ITR 344* held that in the absence of incriminating material from the searched premises of a third person belonging to such other person pertaining to such assessment year, provisions contained u/s 153C are not attracted. Operative part of which is extracted for ready perusal as under :-

“18. The ITAT permitted this additional ground by giving a reason that It was a jurisdictional Issue taken up on the basis of facts already on the record and, therefore, could be raised. In this behalf, It was noted by the ITAT that as per the provisions of Section 153C of the Act, incriminating material which was seized had to pertain to the Assessment Years In question and It Is an undisputed fact that the documents which were seized did not establish any co-relation, document-wise, with these four Assessment Years, Since this requirement under Section 153C of the Act is essential for assessment under that provision, It becomes a jurisdictional fact. We find this reasoning to be logical and valid, having regard to the provisions of Section 153C of the Act. Para 9 of the order of the ITAT reveals that the ITAT had scanned through the Satisfaction Note and the material which was

disclosed therein was culled out and It showed that the same belongs to Assessment Year 2004-05 or thereafter. After taking note of the material In para 9 of the order, the position that emerges therefrom Is discussed In para 10. It was specifically recorded that the counsel for the Department could not point out to the contrary. It Is for this reason the High Court has also given Its Imprimatur to the aforesaid approach of the Tribunal. That apart, learned senior counsel appearing for the respondent, argued that notice In respect of Assessment Years 2000-01 and 2001-02 was even time barred.”

21. Without prejudice, the Id. AR for the assessee further contended that seized documents, referred to by the AO, do not belong to the assessee and referred to his application dated 06.11.2018, available at pages 59 & 60 of the paper book, wherein AO was requested to provide copy of alleged seized documents i.e. Annexure A-7 to A-16 on the basis of which notice u/s 153C of the Act were issued. It is undisputed fact that vide communication dated 04.01.2019, available at pages 1 & 2 of the paper book, AO stated to have provided copy of Annexure A-7 to the assessee and stated that the copy of Annexure A-16 may be provided only after following the procedure viz. Mazharnama as it is in the form of DVD seal packed in the envelope. But undisputedly copies of Annexure A-8 to A-16 have never been provided to the assessee.

22. When AO of the searched person as well as the AO of the assessee is the same and he has prepared both the satisfaction note, it is difficult to make out as to how the AO of the searched person reached the conclusion that the document actually belongs to the assessee. So ultimately, AO made addition

on the basis of Annexure A-7 which is entry recorded in the books of account of M/s. ABW group showing payment of Rs.21 crores having been given by M/s. ABW Infrastructure (P) Ltd. to the assessee during 28.05.2010 to 03.11.2011. First of all, the aforesaid documents which are undisputedly copies of seized books of account of M/s. AWB group do not belong to assessee and secondly, it cannot be treated as incriminating material by any stretch of imagination even. So, in these circumstances, jurisdiction assumed by the AO is bad in law and as such, assessment is liable to be quashed on the ground of lack of jurisdiction with the AO.

23. Ld. DR for the Revenue by relying upon the statement of Atul Bansal recorded on 9/10.11.2011 u/s 132 (4) of the Act and statement of the assessee u/s 131 on 15.02.2012 contended that the detailed investigation resulted into addition made by the AO and relied upon the decision rendered by Hon'ble Supreme in case of *CIT vs. Mukundray K. Shan (2007) 290 ITR 433 (SC)*. But we are of the considered view that when the assessment or reassessment, as the case may be, has been made u/s 153C, the necessary requirements to proceed with such initiation of assessment proceedings must be fulfilled. But, in the instant case, as discussed in the preceding paras, the AO has failed to record the satisfaction note as required u/s 153C rather mechanically recorded the satisfaction and made the assessment. The contention raised by the ld. DR and case laws relied upon are not applicable to the facts and circumstances of the case.

24. At the same time, SMS mentioned by the AO at page 2 of the assessment order found on the mobile phone of Atul Bansal, searched person, are relevant only for AY 2012-13 and not AY 2011-12 as the date of search on the basis of which assessment u/s 153C was initiated on 09.11.2011. Moreover, CIT (A) in para 5.2 of AY 2011-12 failed to clarify if any incriminating material was seized for this year.

25. In view of what has been discussed above, we are of the considered view that assessment framed by the assessee u/s 153A r/w section 153C for AYs 2009-10, 2010-11 and 2011-12 is bad in law for want of jurisdictional error with the AO. At the same time, assessment framed u/s 143 (3) for AY 2012-13 is also bad in law because date of handing over the seized document is 20.01.2014 and the assessment in this case was required to be framed u/s 153C of the Act. Because Hon'ble jurisdictional High Court in case of *CIT vs. RRJ Securities Ltd.* (supra) has categorically held that, "*In terms of proviso to section 153C of the Act, a reference to the date of the search under the second proviso to section 153A of the Act has to be construed as the date of handing over of assets/documents belonging to the assessee (being the person other than the one searched) to the AO having jurisdiction to assess the said Assessee.*"

26. So, in these circumstances, the assessment framed u/s 143(3) of the Act for AY 2012-13, which was otherwise required to be framed u/s 153C, is also not sustainable in the eyes of law on account of jurisdictional error.

27. In view of what has been discussed above, we are of the considered view that without going into the merits of the case, assessment orders framed u/s 153C r/w section 153A of the Act for AYs 2009-10, 2010-11 and 2011-12 and u/s 143(3) of the Act for AY 2012-13 are bad in law and as such not sustainable, hence quashed. Consequently, all the appeals filed by the assessee are allowed.

Order pronounced in open court on this 1st day of October, 2019.

**Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 1st day of October, 2019
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)- XXVI, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**