

**IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH, NAGPUR**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND SHRI RAM LAL NEGI, JUDICIAL MEMBER..**

<u>S.No.</u>	<u>I.T.A. No.</u>	<u>Asstt.Year.</u>
1.	426/Nag/2013	2007-08
2.	427/Nag/2013	2008-09
3.	184/Nag/2014	2009-10.

Radhey Minerals Ltd.,
Nagpur.
PAN AAACR6904M.
Appellant.

Asstt. Commissioner of Income-tax,
Vs. Central Circle-2(3), Nagpur.

Respondent.

Appellant by : Shri R.V.Loya.
Respondent by : Shri A.R. Ninawe.



Date of Hearing : 29-03-2017.
Date of Pronouncement : 30th March, 2017.

ORDER.

PER SHAMIM YAHYA, A.M. :

These appeals filed by assesee are directed against the separate orders of learned CIT(Appeals) dated 05-08-2013 and 29-11-2013 for respective assessment years. Since the issues are common and connected, the appeals were heard together and are being disposed by this common order. The common grounds of appeal read as under :

- (1) That the order of the Asstt. Commissioner of Income Tax, Central Circle 2(3), Nagpur is bad in law and wrong on facts and the learned C.I.T.(A) has erred in confirming the same. That the notice issued u/s.153C and the proceedings thereafter is bad in law. On the facts and circumstances of the case action of both the authorities is unjustified.

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- (2) That the Assessing Officer erred in law and on facts in disallowing Rs.21,55,722/-, Rs.36,87,787/- and Rs.44,19,031/- for A.Ys. 2007-08, 2008-09 and 2009-10 respectively from out of financial expenses and the learned CIT(A) was unjustified in only partly allowing the expenditure. On the facts and circumstances of the case, the expenditure is incurred for the purpose of business and therefore allowable.
- (3) That the learned CIT(A) erred in law and on facts in holding that the trading transaction, in which delivery is not enforced, constitutes speculative transaction. On the facts and circumstances of the case the trading transactions entered by the assessee are outside the purview the definition of speculative transaction as envisaged as per Section 43(5) of the Income Tax Act.
- (4) That the learned CIT(A) erred in law and on facts in holding that the financial expenses (partly) have been incurred for speculative transaction. On the facts and circumstances of the case, the funds available through LC transaction have been utilised for the working capital of the regular business of the assessee.
- That the Assessing Officer erred in law and on facts in charging interest under section 234A, 234B and 234C and the learned C.I.T.(A) has erred in confirming the action of the Assessing Officer.



2. Since the facts are identical, we refer to the facts and figures of assessment year 2007-08.

3. In all these cases there was a search action carried out in the business premises of Gupta Industries Ltd. and at the residential premises as well as other premises belonging to Mukesh Gupta on 29-07-2009. During the course of search, certain books of accounts and documents were seized. On the basis of these seized material, notice u/s 153C was issued on the assessee. In the assessment order the AO has rejected the assessee's plea against the lack of validity of the jurisdiction for issuing notice u/s 153C and had made additions mainly on account of financial expenses.

4. Upon assessee's appeal, the learned CIT(Appeals) has dealt with the assessee's challenge of jurisdiction as under :

"2. Ground No.1 is that the assessment order is bad in law and wrong on facts.

2.1 The AO noted that in the assessment order that in the return filed u/s 153C assessee has taken a plea that the notice u/s 153C is bad in law, without substantiating its claim. In the absence of any substantial reason the plea taken by the assessee was held to be not tenable, more so when there is search and seizure action on the assessee u/s 132 of the Act.

2.2 In appeal proceedings it was submitted for the appellant that a search and seizure operation was conducted in the business premises of Shri Mukesh Gupta on 29/07/2009 and other premises belonging to Shri Mukesh Gupta. There was no seizure of cash and valuables belonging to the assessee. As per the AO, during the course of search, several items of books of accounts and incriminating documents were found and seized. However, no incriminating documents were found. Throughout the post search proceedings, the assessee made repeated requests to the investigation wing & AO to provide the copy of the statements recorded in case of the assessee. However, neither was the request for inspection and procurement of copy of seized material favourably considered within a reasonable time nor was the same provided to the assessee. Also the assessee was not provided any evidence on the basis of which the order was passed by the AO. The order is based on conjectures and surmises of the AO. No evidence was brought on record by the AO either during the assessment proceedings or in his order to support the claim made in the order by him. Thus, that the order of AO is unjustified and liable to be set aside.

2.3 In addition to the fact that as noted in the assessment order, the appellant raised no substantial reason for its objection to notice u/s 153C, and the fact that the AO has noted that during the course of search several item of books of accounts and incriminating documents were found and seized and that the seized material vide Page No. 8 to 16 of A2(25) belong to the assessee which is incriminating in nature, and further that the authorized representative of the assessee inspected the seized material and took photocopies of relevant documents etc., the appellant's ground is held to be without substance and is dismissed."



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5. On merits learned CIT(Appeals) partly sustained the addition made by the AO.

6. Against the above order of learned CIT(Appeals), assessee is in appeals before us. As emanating from the grounds of appeal referred above, the assessee at the threshold has raised the issue that learned CIT(Appeals) has erred in holding that the notice issued u/s 153C is valid.

7. We have heard both the counsel and perused the records. Learned counsel of the assessee submitted that the satisfaction of the AO of the searched persons as envisaged u/s 153C of the I.T. Act has not been recorded before initiating the proceedings against the assessee u/s 153C of the Act which vitiates the entire impugned assessments. For this proposition, learned counsel referred to the CBDT Circular No. 24/2015 dated 31st December, 2015 which has been issued on this very subject. Learned counsel submitted that from the above said CBDT Notification it is clear that in absence of appropriate satisfaction recorded by the AO of the raided party even if he is the same AO as that of assessee, the assessment will be devoid of jurisdiction. Learned counsel submitted that a perusal of the satisfaction note as emanating from the assessment records of the searched party makes it very clear that the appropriate satisfaction has not been recorded therein. He asserted that no satisfaction of seized documents being incriminating and/or belonging to the assessee is recorded by the AO of the searched person. Thus no valid notice u/s 153C is issued in the case of the assessee and assessment framed is bad in law and liable to be quashed. Learned counsel submitted that this proposition is duly supported by following case laws :

1 (2015) 155 ITD 0501 (Delhi) DCIT vs. Satkar Roadlins Pvt. Td.

(2015) 232 Taxman 0268 (AP)
CIT vs Sheettys Pharmaceuticals & Biological Ltd.



- 3 Hon'ble Madhya Pradesh High Court order in ITA No. 44/2011 in the case of M/s. Mechmen vide order dated 10/07/2015
- 4 (2014) 365 ITR 0411 (All)
CIT vs. Gopi Apartment.
- 5 ITAT order in ITA NO.1344/Del/2012 in the case of M/s. DSL Properties (P) Ltd. vide order dated 22/03/2013
- 6 ITAT order in ITA NO.5460 to 5465/Del/2012 in the case of V.K. Fiscal Services Pvt. Ltd. vide order dated 27/11/2013
- 7 Hon'ble Bombay High Court in ITA No.1337 of 2013 in the case of M/s. Ingram Micro (India) Exports Pte. Ltd. vide order dated 29/04/2015
- 8 Hon'ble Delhi High Court in ITA No.422/2015 in the case of Nikki Drugs & Chemicals Pvt. Ltd. vide order dated 03/12/2015

9 ITTA NO.254 of 2014 Judgement
(per Hon'ble the Chief Justice Shri Kalyan Jyoti Sengupta)

ITAT order in ITA Nos.4228/Del/20 11 in the case of
M/s. Shield Home Pvt. Ltd. vide order dated 24/02/2016



8. Further more learned counsel submitted that the addition has not been made on the basis of seized material. In this regard learned counsel submitted that the assessments in all these cases have been completed earlier. Hence in the absence of incriminating material found during the search, no addition is sustainable u/s 153C. Learned counsel further submitted that no incriminating document was found during search. The documents in Page No. 8 to 16 of item 25 of Annexure A2 are sale invoices issued by the appellant company to Gupta Domestic Fuels (N) Ltd. and Gupta International Industries Ltd. on account of sale of Coal by the appellant to these companies. Once the invoices are issued by the appellant and have been received by the buyers viz. Gupta Domestic Fuels (N) Ltd. and Gupta International Industries Ltd. the same belongs to the

buyers. If the seized document which forms the basis does not belong to the petitioner, there is no jurisdiction to issue notice u/s 153C and, therefore, the entire proceedings are null and void as held by Hon'ble Jurisdictional Bombay High Court in the case of CIT vs. Arpit Land Pvt. Ltd. in I.T. Appeal No. 83/2014 order dated 07-02-2017.

The entries for the purchase by the aforesaid entities is duly found recorded in their books of accounts of assessee. The entries for sale are also found recorded in the books of accounts of assessee. Thus these documents cannot be called as incriminating documents for the purpose of issue of notice u/s 153C. Furthermore, on perusal of the assessment order, it will be revealed that addition is not made on the basis of these documents. This itself establishes that the documents are not incriminating in nature. For the proposition that dehorse seized material, no addition is sustainable where assessments have already been completed earlier, learned counsel relied upon the following further case laws :

- 1 Hon'ble Bombay High Court order in ITA NO.941 of 201 in the case of Sinhgad Technical Education Society vid order dated 25/03/2015
- 2 (2011) 51 oTR 0241 (Pune)
Sinhgad Technical Education Society vs. ACIT
3. ITAT order in ITA Nos.8628 - 8633/M/2010 in the case of M/s. [Dhananjay Internationa] Ltd. vide order dated 12/10/2015
4. ITAT order in ITA NO.959/PN/2010 in the case of Bharati Vidyapeeth Medical Foundation vide order dated 28/04/2011
5. Hon'ble Bombay High Court order in ITA NO.923 of 201 in the case of Bharati Vidyapeeth vide order dated 11/09/2014
6. ITAT order in ITA NO.917/PN/2010 in the case of Bharati Vi?yapeeth vide order dated 28/04/2011
7. Hon'ble Delhi High Court order in ITA NO.171/2015 in the case of M/s. Refam Management Services (P) L1



vide order dated 05/11/2015

8. Hon'ble Delhi High Court order in ITA NO.164/2015 in the case of RRJ Securities Ltd. vide order dated 30/10/2015
9. ITAT order in ITA Nos.1541 & 1543/Mum/2015 in the case of M/s. Empire Mall Pvt. Ltd. vide order dated 12/10/2015
10. ITAT order in IT(SS)A Nos.84-86/Kol/2011 in the case of Trishul Hi-Tech Industries vide order dated 24/09/20
11. ITAT order in ITA No.472/Coch/2013 in the case of M/s. Royal Cartons P. Ltd. vide order dated 16/09/2011.

9. Per contra learned D.R. relied upon the orders of the authorities below.

10. We find that at the outset we need to adjudicate the jurisdiction aspect. The first limb of argument in this regard is that there is no valid satisfaction in the case of the persons searched that incriminating material found may relate to the assessee in whose case action has been taken u/s 153C. At the outset in this case we may gainfully refer to the satisfaction recorded in the case of persons in whose cases search and seizure activities were conducted. The satisfaction note found in the case of the searched persons, namely, Shri Mukesh Gupta Indl. and Gupta Coal India Ltd. were examined from the concerned assessment records brought by the learned D.R. Common satisfaction note in the case of Mukesh Gupta, Indl. Reads as under :

“All the books and documents seized / impounded during the course of search / survey as also material gathered on enquiries and post search investigations and the various observations made in the appraisal report have been carefully examined and considered with reference to the regular books of accounts while framing the assessments for all the assessment years.”

Common satisfaction note in the case Gupta Coal India Ltd. reads as under:

“ All the books and documents seized/impounded during the course of search/survey as also material gathered on enquiries and post search investigations and the various observations made in the appraisal report



have been carefully examined and considered with reference to the regular books of accounts while framing the assessments for all the assessment years.

Regarding quantity of coal received from and supplied to various parties information was called u/s 133(6) of the I.T. Act. The details were verified with reference to books of accounts of the assessee and there is no discrepancy.

Regarding payment of salary in cash the information has been passed on to the respective A.O. having jurisdiction over the individual. The assessee has accounted for the entire expenditure in the books.

Regarding receipt of Rs.5 lakhs in the cash book of Chandrapur branch the amount is duly reflected in the cash book of Chandrapur Branch."

11. There is no other satisfaction note whatsoever in the concerned assessment files of the persons in whose case search action has been conducted and based upon which notices have been issued u/s 153C to the assessee.

12. In this regard we can gainfully refer to the provisions of section 153(1) as under :

" Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person ^{2a}[and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A] :

⁴[**Provided** that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to ⁵[sub-section (1) of] section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person :]

⁶[**Provided further** that the Central Government may by rules⁷ made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice



for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made except in cases where any assessment or reassessment has abated.]

13. From the above provisions, it is clear that where the AO of the persons searched is satisfied that any money, bullion, jewellery, books of accounts or other documents etc. belong to a person other than a searched person, then such document or assets etc. shall be handed over to the AO of the other person and the later AO shall proceed against such other person to assess or reassess his income. Thus it is manifest before handing over such documents to the AO of the other person a satisfaction has to be recorded by the AO of the searched persons, that money, bullion or jewellery, etc., found from the person searched belong to the 'other person'. Only when such 'satisfaction' is recorded by the AO of the person searched and such documents or assets seized, etc., are handed over to the AO of the 'other person', that the later AO acquires jurisdiction to make assessment or reassessment of the 'other person.' It is, therefore, clear that the AO of the 'other person' can acquire jurisdiction to assess or reassess income of the 'other person' only when the AO of the persons searched records satisfaction in his case (searched person) before handing over money, bullion, jewellery, etc. to him. So, what emerges is that the recording of satisfaction by the AO of the person searched is a condition precedent for the AO of the 'other person' to acquire jurisdiction. Unless such jurisdictional fact is satisfied, there can be no question of making assessment or reassessment of the 'other person.'

In the case of Anil Kumar & Ors. vs. UOI & Ors. Reported in 155 Taxman 659 (5C), the Hon'ble Apex Court observed that "A jurisdictional fact is a fact which must exist before a court, a tribunal or an authority assumes jurisdiction over a particular matter. A jurisdictional fact is one on existence or non-existence of which depends jurisdiction of a court, a

tribunal or an authority .. It is the fact upon which an administrative agency's power to act depends. If the jurisdictional fact does not exist, the court, authority or officer cannot act. If a Court or authority wrongly assumes the existence of such fact, the order can be questioned by a writ of certiorari. The underlying principle is that by erroneously assuming existence of such jurisdictional fact, no authority can confer upon itself jurisdiction which it otherwise does not possess. The existence of 'jurisdictional fact' is sine qua non for the exercise of power by a court of limited jurisdiction.

As noted earlier section 153C provides for taking recourse to assessment in respect of any other person, the conditions precedent wherefore are: (i) satisfaction must be recorded by the AO that any undisclosed income belongs to any person, other than the person with respect to whom search was made under s. 132; (ii) the books of account or other documents or assets seized or requisitioned had been handed over to the AO having jurisdiction over such other person; and (iii) the AO has proceeded under s. 153C against such other person. The conditions precedent for invoking the provisions of s. 153C, thus, are required to be satisfied before the provisions of said section are applied in relation to any person other than the person whose premises had been searched or whose documents and other assets had been requisitioned under s. 132A.s That the recording of satisfaction by the AO having jurisdiction over the person searched is an essential and prerequisite condition for bestowing jurisdiction to the AO of other persons.

14. Now in this regard the CBDT has also issued notification as under :



"CIRCULAR NO. 24/2015

F No.279/Misc.1140 /2015/IT J

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 31 st December, 2015

Subject: Recording of satisfaction note under section 158BD/153C of the Act - reg.-

The issue of recording of satisfaction for the purposes of section 158BD/153C has been subject matter of litigation

2 The Hon'ble Supreme Court in the case of M/s Calcutta Knitweaves in its detailed judgment in Civil Appeal NO.3958 of 2014 dated 12.3.2014(available in NJRS at 2014-LL-0312-51) has laid down that for the purpose of Section 15880 of the Act, recording of a satisfaction note is a prerequisite and the satisfaction note must be prepared by the AO before he transmits the record to the other AO who has jurisdiction over such other person u/s 15880 The Hon'ble Court held that "the satisfaction note could be prepared at any of the following stages:

(a) at the time of or along with the initiation of proceedings against the searched person under section 158BC of the Act; or (b) in the course of the assessment proceedings under section 158BC of the Act; or (c) immediately after the assessment proceedings are completed under section 158BC of the Act of the searched person."

3 Several High Courts have held that the provisions of section 153C of the Act are substantially similar/pari-materia to the provisions of section 158BO of the Act and therefore, the above guidelines of the Hon'ble SC. apply to proceedings u/s 153C of the IT Act, for the purposes of assessment of income of other than the searched person. This view has been accepted by CBOT.

4. The guidelines of the Hon'ble Supreme Court as referred to in para 2 above, with regard to recording of satisfaction note, may be brought to the notice of all for strict compliance. It is further clarified that even if the AO of the searched person and the "other person" is one and the same, then also he is required to record his satisfaction as has been held by the Courts.

5. In view of the above, filing of appeals on the issue of recording of satisfaction note should also be decided in the light of the above judgement. Accordingly the Board hereby directs that pending litigation with regard to recording of satisfaction note under section 158BO /153C should be withdrawn/not pressed if it does not meet the guidelines laid down by the Apex Court. "

15. From the above CBDT notification it is clear that even if the AO of the searched persons and the assessee are same still proper satisfaction qua the documents etc. found relating to the assessee has to be recorded in the case of the searched persons. From the perusal of the satisfaction note of the AO in the case of the searched persons as reproduced above it is evident that there is no such satisfaction that any bullion, jewellery, books of accounts, other documents etc. belonging to the assessee has been found and the same is being



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handed over to the AO of the assessee. Thus the absence of requisite satisfaction denudes the legality of jurisdiction in this case. Hence it has to be held that since proper satisfaction as envisaged u/s 153C has not been recorded, the assessments are liable to be quashed on account of lack of validity of jurisdiction. In this regard the case laws referred above by the learned counsel of the assessee support this proposition. We may gainfully refer to some of them as under :

- i) CIT vs. Shetty Pharmaceuticals & Biological Ltd. 232 Taxman 0268. (Andhra Pradesh H.C.)

In this case it was held that section 153C and 153A mandates recording of satisfaction of the Assessing Officer(s) is a pre-condition for invoking jurisdiction and it is not a mere formality because recording of satisfaction postulates application of mind consciously as the documents seized must be belonging to the any other person other than the person referred to in Section 153-A of the Act. It is contended that the same Assessing Officer is involved in the matter. This fact does not dispense with above requirement. It is settled position of law that when a thing is to be done in one particular manner under law this has to be done in that manner alone and not other way (See Nazir Ahmed v. King Emperor). We think the learned Tribunal has correctly followed the principle. We do not find any element of law to be decided.

Conclusion:

Recording of satisfaction of AO(s) is pre-condition for invoking jurisdiction and it is not a mere formality because recording of satisfaction postulates application of mind dconsciously as documents seized must be belonging to any other person other than person referred to in S. 153-A.

- ii) Hon'ble High Court of Madhya Pradesh High Court decision in the case of CIT vs. Mechmen in ITA No. 44/2011, ITA No. 45/2011 & others vide order dated 10-07-2015.

In this case the relevant exposition from the Hon'ble High Court is as under :

Even for the purpose of Section 153C, the Assessing Officer before handing over the items to the Assessing Officer having



jurisdiction must be "satisfied" that the items belongs or belong to the person other than the person referred to in Section 153A. That satisfaction of the concerned Assessing Officer is a *sine qua non*. The consequences flowing from the action to be taken on the basis of such information handed over to the Assessing Officer having jurisdiction, for the assessee, who is a person other than the person referred to in Section 153A, is drastic - of assessment or re-assessment of his income falling within six assessment years.

The fact that incidentally the Assessing Officer is common at both the stages would not extricate him from recording satisfaction at the respective stages. In that, the Assessing Officer is satisfied that the items referred to in Section 153C belongs or belong to a person (other than the person referred to in Section 153A), being *sine qua non*. He cannot assume jurisdiction to transmit those items to another file which incidentally is pending before him concerning other person (person other than the person referred to in Section 153A).

Similarly, as there is no provision either express or implied (in the Act) to dispense with the requirement of satisfaction, if the Assessing Officer happens to be the same, as in this case, the arguments of the Department must be negative.

We conclude that the condition precedent for resorting to action under Section 158BD delineated by the Supreme Court in the case of Manish Maheshwari (*supra*) and in the recent case of Commissioner of Income-tax-III vs. Calcutta Knitweaves (*supra*), would apply on all fours mandating satisfaction of the Assessing Officer(s) dealing with the case at the respective stages referred to in Section 153C.



- iii) Hon'ble Bombay High Court decision in the case of Director of Income Tax vs. M/s Ingram Micro (India) Exports Pte Ltd. in ITA No. 1337 of 2013 & Others vide order dated 29-04-2015.

In this case it was expounded that as per provisions of section 153A and section 153C of the I.T. Act, proceedings can only be initiated after the AO arise at the satisfaction that the seized material pertains to other persons, namely, persons other than searched persons. It is only then the persons other than the searched party can be proceeded against.

If there is a satisfaction required and to be recorded as a pre-condition and which is mandatory then in the absence thereof all further steps stand vitiated.

- iv) In a batch of appeals in ITA No. 60/2016 & Others in the Principal CIT vs. Satkar Roadlines Pvt. Ltd. vide order dated January 12, 2016, the Hon'ble Delhi High Court noted as under :

It is stated by Ms. Suruchi Aggarwal, Senior Counsel for the Revenue, that in light of the Circular No. 24/2015 dated 31st December, 2015 issued by the Central Board of Direct Taxes on the subject "Recording of satisfaction note under Section 158BD/153C of the Act", these appeals are not pressed

These appeals are, accordingly, dismissed as not pressed.



16. From the above case laws and CBDT Circular, it is evident that recording of requisite satisfaction in the case of a searched party is a sine qua non for assuming jurisdiction for the issue of notice u/s 153C even if the AO of the searched person and the assessee are same. It is abundantly clear from the satisfaction note recorded in the case of the searched person that there is no requisite satisfaction granting the AO jurisdiction for issuing notice to the assessee u/s 153C of the I.T. Act. The satisfaction note as emanated from files of searched persons, namely, M/s Mukesh Gupta and Gupta Industries Ltd. does not show at all that that the AO in their case has recorded a satisfaction that any of the seized material is belonging to the assessee has been found, and is incriminating in nature which is to be handed over to the AO of the assessee. In such circumstances, in our considered opinion, the assessee deserves to succeed on this account and the assessments are liable to be quashed on account of lack of validity of jurisdiction. Accordingly we set aside the orders of learned CIT(Appeals) on this aspect of jurisdiction and quash the assessments by holding that requisite satisfaction was not recorded before the issue of notice u/s 153C.

17. In this regard we further note that in similar situation when the finding was that requisite satisfaction was not there in the case of the searched person qua incriminating material relating to assessee having been found, the Revenue had withdrawn this appeal before the Hon'ble Delhi High Court in the light of Circular No. 24/2015 as referred above, CIT vs. Satkar Roadlines (supra).

18. We further note that an identical view as above has been taken by this Bench in similar case of group concern in the case of M/s Grace Industries Ltd. in ITA Nos. 296 to 300/Nag/2014 and 348 to 352/Nag/2014 vide order dated 25th November, 2016 and in the case of Mansi Commodities Pvt. Ltd. in ITA Nos. 146,147&148/Nag/2014 & Tasmseem Commercial Pvt. Ltd. in ITA Nos. 149, 150 & 151/Nag/2014 vide order dated 19th Dec., 2016

19. As regards the learned counsel of the assessee's challenge of addition on account of the plea that since the assessment had already been completed earlier, dehorse any incriminating seized material found addition is not sustainable, and other issues relating to merits of addition, we find that the same is now only of academic interest as we have already quashed the validity of jurisdiction in the preceding paragraphs. Hence we are not engaging into adjudicating this aspect of learned counsel of the assessee's submission.

20. In the result these appeals filed by the assessee stand allowed.

Order pronounced in the Open Court on this 30th day of March, 2017.



Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER.

Nagpur,
Dated: 30th March, 2017.