

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'B' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND  
SHRI L. P. SAHU, ACCOUNTANT MEMBER  
(Through Virtual Hearing)**

<b>Sl. No.</b>	<b>ITA No. &amp; Asst. Year</b>	<b>Appellant</b>	<b>Respondent</b>
1.	491/Hyd/2020 2009-10	ACIT, Central Circle 3(1), Hyderabad.	Shri Syed Rafiuddin, Hyderabad. PAN BERPS6026J
2.	492/Hyd/2020 2009-10	ACIT, Central Circle 3(1), Hyderabad.	Smt. Sunitha Prasad, Hyderabad PAN BKGPP 3507E
3.	493/Hyd/2020 2009-10	-do-	Mrs. Loraine Reena Peterson, Hyderabad. PAN APOPP0610C
4.	494/Hyd/2020 2009-10	-do-	Shri Surendranath Mandem, New Delhi. PAN AFYPM6952L

Appellant By : Shri YVST Sai (D.R.)  
Respondents By : Shri P. Murali Mohana Rao.

Date of Hearing : 05.10.2021.  
Date of Pronouncement : 20.10.2021.

**O R D E R**

**Per Bench :**

These Revenue's four appeals against as many assesses for Asst. Year 2009-10 arise from the Commissioner of Income Tax (Appeals)-11, Hyderabad's separate orders, all dt.28.02.2020 passed in case Nos.10093/2019-2020; 10095/2019-2020; 10100/2019-

2020 and 10097/2019-2020; respectively in proceedings under Section 143(3) r.w.s. 153C of Income Tax Act, 1961 ('the Act').

Heard both the parties. Case file perused.

2. We notice at the outset that all the four Revenue's instant appeals suffer from 9 days delay in filing. Learned department representative submitted that due to the outbreak of pandemic covid 19 unable to get the documents from the department which caused the impugned delay in filing of the instant appeal. Case law Collector Land Acquisition Vs. Mst. Katiji & Ors, 1987 AIR 1353 (SC) and University of Delhi Vs. Union of India, Civil Appeal No.9488 & 9489/2019 dated 17<sup>th</sup> Dec., 2019, hold that such a delay; supported by cogent reasons, deserves to be condoned so as to make way for the cause of substantial justice. We accordingly hold that assessee's impugned delay of 9 days is neither intention nor deliberate but due to the circumstances beyond control. Cases are now taken up for adjudication on merits.

3. It transpires during the course of hearing that the CIT(A) herein has quashed the Assessing Officer's 143(3) r.w.s. 153C assessment for want of a valid satisfaction recorded in furtherance to the search in issue dt.11.3.2010.

4. Learned CIT-DR vehemently contended during the course of hearing that the CIT(A) had erred in law and on facts in terming the impugned assessment as an invalid one for want of a valid satisfaction note by the Assessing Officer who was also the competent authority to assess the searched party M/s. MBS Jewellers Pvt. Ltd. He quoted hon'ble apex court's recent decision in **M/s. Super Malls Pvt. Ltd. Vs. PCIT** Civil Appeal No.2006-2007 of 2020 dt.5.3.2020 that twin rounds of satisfaction in case of a common Assessing Officer of both the searched person and that of the third party, is no more mandatory when any incriminating material is found or seized during the course of search "belongs to", "pertains to" and "relates to" u/s.153C of the Act; as the case may be. We deem it appropriate at this stage to reproduce the Assessing

Officer's corresponding order sheet entry initiating 153C proceedings against the assessee as follows :

*“ A Search & Seizure operation was conducted at the premises of MBS Jewellers Pvt. Ltd. and others. Consequent to that, assessments in the case of appellant was completed and passed by the A.O. u/s.143(3) r.w.s. ;153C dt.30.12.2011.*

*In connection to these it is submitted that the Hon'ble ITAT in one of the group cases of the appellant, namely P.S. Prasad for A.Y. 2006-07 vide its order dt.09.12.2015 having ITA No.1211/H/2014 (para No.4) has quashed the order on account of non-satisfaction u/s. 153C of the Act and has allowed the appeal of the assessee.”*

We find no substance in Revenue's foregoing sole substantive grievance. This tribunal's co-ordinate bench common order in Mr. S. Satyanarayana & Others dt.9.12.2015 involving a batch of appeals pertaining to the very search has already concluded that the Assessing Officer's foregoing identical note had failed to record his “satisfaction” in the prescribed manner u/s. 153C of the Act. Learned CIT-DR is fair enough before us that the

Assessing Officer herein had recorded identical satisfaction in all these cases.

5. Coupled with this, there is yet another equally important aspect of the issue. There is hardly any dispute that we are dealing with a “search” in issue dt.11.3.2010 wherein the corresponding statutory expression “belongs to” only held the field upto 1.6.2015 when the Finance Act, 2015 inserted sub-clauses (a) & (b) to sub-section (1) of section 153C also including cases of the seized material “belongs to” or “pertains to” a person other than the searched assessee. Section 153C(2) also makes it clear that section 153A comes into play the moment of the Assessing Officer of such a third party initiates the corresponding proceedings to this effect. Coupled with all this in the 2<sup>nd</sup> proviso to sub-section (1) of section 153A that all assessments pending on the “date of initiation of search” shall abate. We hold in view of the foregoing statutory provisions that the Assessing Officer’s foregoing alleged section 153C satisfaction only incorporated the expression; whilst dealing with the alleged seized material, it only

“relates to” than “belongs to” as on the date of search and therefore also, section 153C satisfaction are found not same is not sustainable qua the instant latter aspect as well. We wish to make it clear that we are dealing with a “search” wherein the corresponding statutory provisions have to be given stricter interpretation only in light only in light of hon'ble apex court decision Commissioner of Customs Vs. Dilip Kumar & Co. (2018) 9 SCC 1 (SC) (FB). We accordingly affirm the CIT(A)'s action under challenge holding the impugned 143(3) r.w.s. 153C assessment as lacking proper satisfaction. Ordered accordingly.

6.5. These Revenue's four appeals are dismissed in above terms. A copy of this common order be placed in the respective case files.

*Order pronounced in the open court on 20th Oct., 2021.*

Sd/-

**(L.P. SAHU)**  
Accountant Member

Sd/-

**(S.S. GODARA)**  
Judicial Member

Hyderabad, Dt.20.10.2021.

\* Reddy gp

Copy to :

1.	i) Mr. Syed Rafiuddin, H.No.1-68, Lingoiguda, Saroornagar, Hyderabad. ii) Mrs. Sunitha Prasad, 506, A.C.Sharma Complex, S.D. Road, Secunderabad. iii) Mrs. Loraine Reena Peterson, W/o R. Peterson, 14/240, Mirjalguda, Malkajigiri, Hyderabad. iv) Shri M. Surendranath, Plot No.8, Hill Hit Society, F.No.B-704, Sector 22, Dwarka, New Delhi.
2.	ACIT/DCIT, Central Circle 3(1), Hyderabad.
3.	Pr. C I T (Central), Hyderabad./Addl. CIT, Central Range 2, Hyderabad.
4.	CIT(Appeals)-11, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.