

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G" : DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA.No.8952/Del./2019
Assessment Year 2010-2011

The DCIT, Central Circle, Room No.229, 2 nd Floor, CGO-1, Hapur Chungi, Ghaziabad – 201 002. Uttar Pradesh	vs.	M/s. Sutaniti Marketing Pvt. Ltd., A-52, Top Floor, Street No.1, Gurunanakpura, Laxmi Nagar, New Delhi. PIN – 110 092 PAN AAHCM0816E
(Appellant)		(Respondent)

For Revenue :	Shri H.K. Choudhary, CIT-DR
For Assessee :	Ms. Bharti Sharma, Advocate

Date of Hearing :	12.10.2022
Date of Pronouncement :	18.10.2022

ORDER

PER ANIL CHATURVEDI, A.M. :

This appeal filed by the Revenue is directed against the Order of the Ld. CIT(A)-IV, Kanpur, dated 23.08.2019 in Appeal No.CIT(A)-IV/KNP/11153/DCIT-CC/GZB/206-17/382 relating to the A.Y. 2010-11.

2. Briefly stated facts of the case are that the assessee company stated to be engaged in the business of brokers/marketing related activities. The A.O. noted that a search seizure operation under section 132 of the I.T. Act, 1961 was conducted on 26.09.2014 on the premises of the assessee comprising KDP/MGI group of cases. Subsequently, notice under section 153C of the I.T. Act, 1961 was issued on 16.09.2016 after recording satisfaction note. In response to the aforesaid notice, assessee electronically filed its return of income on 11.10.2016 declaring total income at Rs.318/-. Thereafter, the case was taken-up for scrutiny and consequently, assessment was framed under section 153C r.w.s. 143(3) of the I.T. Act, 1961 vide order dated 30.12.2016 and total income of the assessee company was determined at Rs.7,85,00,320/-, *inter alia*, by making addition of Rs.7,85,00,000/- being share application money received from various companies under section 68 of the I.T. Act, 1961.

2.1. Aggrieved by the order of the A.O, the assessee carried the matter in appeal before the Ld. CIT(A). Before the

Ld. CIT(A) the assessee apart from challenging the addition made by A.O. also challenged the assessment framed under section 153C of the I.T. Act, 1961. The Ld. CIT(A) vide order dated 23.08.2019 in Appeal No.CIT(A)-IV/KNP/11153/DCIT-CC/GZB/206-17/382 and for the reasons noted in the order held the assessment framed under section 153C to be invalid and need to be annulled.

3. Aggrieved by the order of the Ld. CIT(A), the Revenue is now in appeal before the Tribunal.

4. Before us, at the outset, the Ld. D.R. submitted that though the Revenue has raised various grounds of appeal, but, however the only controversy that is to be decided by the Tribunal in the present appeal is with respect to annulling the assessment order of the A.O. as held by the Ld. CIT(A) under section 153C of the I.T. Act, 1961 being barred by limitation.

4. Before us, the Ld. D.R. took us through the findings of A.O. and supported his order. He further submitted that the Ld. CIT(A) has erred in annulling the

assessment order framed under section 153C of the I.T. Act, 1961 by following the decision of Hon'ble Delhi High Court in the case of RRJ Securities reported in [2016] 380 ITR 612 (Del.). He further submitted that the ratio of the decision in the case of RRJ Securities (supra) would not be applicable to the facts of the present case for the reason that the A.O. of the searched person and the assessee are the same and, therefore, the period of six assessment years should be considered from the date of search.

5. The Learned Counsel for the Assessee, on the other hand, supported the order of the Ld. CIT(A).

6. We have heard the Learned Representatives of both the parties and perused the material on record. The Revenue in the present appeal is challenging the action of Ld. CIT(A) in annulling the assessment framed by A.O. under section 153C of the I.T. Act, 1961. We find that Ld. CIT(A) after considering the submissions of the assessee, the remand report from the A.O. and assessee's reply to the remand report at para 5.6 of his order noted and has concluded that notice under section 153C of the I.T. Act,

1961 was issued by the A.O. on 16.09.2016 and, therefore, as per the provisions of the Act the financial year of the search shall be deemed to be the financial year in which notice under section 153C was issued i.e., F.Y. 2016-17 relevant to A.Y. 2017-18 and, therefore, in such a situation the block period for which action under section 153C of the Act could be contemplated would include A.Ys. 2011-12 to 2016-17 and would not include A.Y. 2010-11. The Ld. CIT(A), therefore, held the notice issued by the A.O. under section 153C of the I.T. Act, 1961 for the A.Y. 2010-11 to be barred by limitation.

6.1. We find that the Hon'ble Delhi High Court in the case of RRJ Securities (supra), has held that by virtue of Section 153C(1) of the I.T. Act, 1961 proceedings would have to be in accordance with Section 153A of the I.T. Act, 1961 and the reference to the date of search would have to be construed as the reference to the date of recording of satisfaction.

6.2. Before us, the Ld. D.R. has stated that the decision in the case of RRJ Securities (supra) would not be

applicable for the reason that in the present case the A.O. of the searched person and the assessee are one and the same. We do not find merit in the aforesaid arguments of the Ld. D.R. for the reason that the Hon'ble High Court at para-16 of the order has observed that the distinction made by Commissioner of Income Tax(A) by observing that the A.O. of the searched person who was to handover the documents and the A.O. of the assessee were one and same person was not relevant in terms of Section 153C of the I.T. Act, 1961 and that Ld. CIT(A) had erred in proceeding on the basis that period of 06 years was to be reckoned from the end of the financial year preceding the financial year in which the search was conducted.

6.3. Before us, the Revenue has not placed on record any contrary binding decision in its support nor has placed any material to demonstrate that the aforesaid decision rendered by Hon'ble Delhi High Court in the case of RRJ Securities Ltd., (supra) has been set aside, overruled or stayed by any higher judicial forum. In view of the aforesaid facts, we find no reason to interfere with the order of the Ld.

CIT(A) and thus, the grounds raised by the Revenue are dismissed.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 18.10.2022.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Delhi, Dated 18th October, 2022

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'G' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.