

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Yogesh Kumar US, Judicial Member

ITA No. 3640/Del/2019 : Asstt. Year: 2012-13

JCIT(OSD), Central Circle-1, Noida-201301	Vs.	Minar Hotels Pvt. Ltd., 6, Todermal Lane, Connaught Place, New Delhi-110001
(APPELLANT)		(RESPONDENT)
PAN No. AAFCM9043B		

**Assessee by : Sh. Rajat Jain, CA &
Sh. Akshat Jain, CA**

Revenue by : Ms. Sarita Kumari, CIT DR

Date of Hearing: 06.06.2023

Date of Pronouncement: 28.06.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-IV, Kanpur dated 04.01.2019.

2. The only issue to be adjudicated by us is whether the assessment can be held to be valid in the absence of any material found and seized during the search.

3. Heard the arguments of both the parties and perused the material available on record.

4. It is a settled position of law that notice u/s 153C of the Income Tax Act, 1961 is invalid *ab-initio* in absence of satisfaction note and incriminating seized material. From the plain reading of language of Section 153C of the Act and various

judicial pronouncements, it is clear that in order to reopen the assessment of other person u/s 153C of the Act for the Assessment Year earlier to the year of search, direct correlation must exist between existence of incriminating material and relevant Assessment Years.

5. In the instant case, admittedly, additions are not based on any incriminating document found and seized as a result of search. In fact, no seized or incriminating document is mentioned in the satisfaction recorded by Assessing Officer for the Assessment Year involved in the appeal. Further, the AO has not recorded the satisfaction for these relevant Assessment Year as envisaged u/s 153C of the Act.

6. In view of these facts and respectfully following the judgment of the Hon'ble Supreme Court in the case of Sinhgad Technical Educational Society, it is concluded that notice u/s 153C issued by the AO need to be treated as invalid and legally not sustainable and quashed, resulting in quashing of the assessment thus framed.

7. In the result, the assessment framed u/s 153C is *void ab initio* and hence the appeal of the revenue is liable to be dismissed.

8. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 28/06/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 28/06/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR