

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'D' : NEW DELHI)
BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 606/Del/2023
(Assessment Year : 2014-15)**

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| DCIT Central Circle 14 New Delhi | Vs. | M/s. Rajesh Sharma, 1165, Kucha Mahajani, Chandni Chowk, Delhi-110006 |
| (APPELLANT) | | (RESPONDENT) |

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| Appellant by | S/Sh. Shivam Malik & Ankit Manchanda, Adv. |
| Revenue by | Sh. Sanjay Kumar, Sr. DR |

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|------------------------|---------------------------|
| Date of hearing: | 08.08.2023 |
| Date of Pronouncement: | 23 rd .08.2023 |

ORDER

PER ANUBHAV SHARMA, JM:

The appeal is preferred by Revenue against order dated 27.12.2022 passed by Commissioner of Income Tax(Appeal)-28, New Delhi (hereinafter referred as "learned First Appellate Authority" or in short "FAA") in appeal no. 26/11387/2013-14 for the assessment year 2014-15, arising out of assessment order dated 28.12.2021 passed by ACIT, Central Circle-14, New Delhi u/s 153C r.w.s. 143(3) of the Act (hereinafter referred in short as "Ld. AO").

2. Heard and perused the records.

3. The brief facts of the case are that the assessee is an individual, engaged in the business of distribution of bullion and jewellery for the last 25 years. The appellant has been carrying out its business activities under the name and style of M/s Bharat Bullion Bourse having office at 1165, Kucha Mahajani, Chandni Chowk, Delhi-110006. The appellant during the period under consideration had filed his return of income at Rs. 19,83,000/- on 27.11.2014, in the normal course and the same was assessed u/s 143(3) of the Income Tax Act, 1961 at income of Rs. 21,08,425/-.

3.1 Later on, a notice u/s 148 of the Act was issued by the Assessing Officer on 23.03.2020, the reasons whereof have also been supplied to the appellant and incorporated in the assessment order itself. As a reply to the above-mentioned notice, the appellant filed his return of income on 14.07.2020.

3.2 Thereafter notice u/s 153C of the Act was issued by the assessing officer on 26.07.2021 to the appellant abating the proceedings u/s 148 of the Act and merging the erstwhile proceedings which were initiated u/s 148 of the Act.

3.3 Search was conducted on 05.01.2017 in the residential cum business premises of Sh. Kusharg Jindal promoter and Director of M/s. Jindal Bullion Ltd. During the course of search it was found that M/s. Faith Jewellers had no actual business activities and was providing only accommodation entries in the form of purchase bills on receipt of cash and the same amount was being transferred to the so called sellers through banking channel. It was found that the appellant assessee has also taken sale bills from M/s Faith Jewellers. Accordingly, the Assessing Officer of the searched person recorded his satisfaction on 17.08.2020 in relation to the appellant based on the findings and handed over the seized

material to the assessing officer of the appellant for initiating proceedings as per Income Tax Act. The assessing officer of the appellant recorded his satisfaction on 26.03.2021 referring to the documents seized which relates to the appellant.

3.4 Thereafter, assessment u/s 153C/143(3) of the Act was completed on 28.12.2021 at total income of Rs.88,90,609/- after making the addition of Rs.67,82,179/- on account of unaccounted cash paid to M/s Faith Jewellers for getting accommodation entries. Aggrieved with the assessment order, the assessee filed an appeal before CIT(A).

4. The Ld. CIT(A) vide dated 27.12.2022 allowed the appeal of the assessee holding that assessment made for assessment year 2014-15 is invalid as 6 previous assessment years from the year of search has to be reckoned from the date when the books of accounts or seized documents were handed over to the Assessing Officer and when the satisfaction stood recorded. Ld. CIT(A) relied upon the decision of Hon'ble High Court in the case of **CIT vs. RRJ Securities [2016] 380 ITR 612 (Del)** and decision of Hon'ble Supreme Court in the case of **PCIT, Central-1 vs. Raj Buildworth (P) Ltd. [2020]113 taxmann.com 601(SC)**.

5. Revenue has come in appeal raising following grounds;

“i. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) is correct in quashing the assessment order passed by the AO holding it to be barred by limitation without discussing on the merits of the case as the assessee used its unaccounted cash of Rs.67,82,179/- to get accommodation entry from M/s Faith Jewellers.

ii. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) is correct in holding that assessment made for assessment year 2014-15 is invalid as 6 previous assessment years from the year of search has to be reckoned from the date when the books of

accounts or seized documents were handed over to the Assessing Officer or when the satisfaction as recorded despite the fact that it is clearly provided under Section 153C(1) that the assessment can be made in respect of 'other person' (non-searched person) for the relevant assessment year or years referred to in Sub-Section(1) of Section 153A which provides reckoning the period of six assessment years immediately preceding the assessment year relevant to the previous year in which search is condoned.

iii. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) is correct in ignoring the facts that first proviso of section 153C was entirely in different context and it clearly referred to Second Proviso of Section 153A only substituting the date of handing over in place of the date of initiation of search in the case of 'other person' for the limited purpose of abatement only and not for the purpose of making assessment under Section 153C(1).

iv Whether on the facts and circumstances of the case and in law, Ld. CIT(A) is correct in relying upon the decision of Hon'ble SC in the case of PCIT vs. Raj Buildworth Pvt. Ltd. where in SLP was dismissed on the ground of delay and not on merit.

V (a) Whether on law and facts of the case the order of the Ld. CIT(A) is erroneous and not tenable in law and on facts.

(b) The appellant craves leave to add, amend any/all the grounds of appeal before or during the course of the hearing of the appeal.”

6. Appreciating the aforesaid, it becomes obvious that Ld. CIT(A) has merely taken into consideration the settled proposition of law of Jurisdictional High Court in the case of **CIT vs. RRJ Securities (supra)** to give relief to the assessee and ld. DR could not bring anything to show how there was error in applying the law laid in **RRJ Securities Case (Supra)**.

6.1 Further, in **Pr. Commissioner Of Income Tax v. Sarwar Agency Pvt. Ltd. 2017 ITR 397 400**, Hon'ble Delhi High Court has reaffirmed the law laid

in **RRJ Securities Case (Supra)** and declined to reconsider the same with following observations;

“11. Mr. Ashok Manchanda, learned Senior Standing counsel for the Appellant, sought to pursue this Court to reconsider its view in RRJ Securities (supra). The Court declines to do so for more than one reason. First, for reasons best known to it, the Revenue has not challenged the decision of this Court in RRJ Securities (supra) in the Supreme Court. The said decision has been consistently followed by the authorities under this Court as well as by this court. Thirdly, the recent amendment to Section 153 C(1) of the Act states for the first time that for both the searched person and the other person the period of reassessment would be six AYs preceding the year of search. The said amendment is prospective.”

7. Thus, the grounds raised by Revenue have no substance. **Consequently, the appeal of Revenue is dismissed.**

Order pronounced in the open court on 23rd August, 2023.

**Sd/-
(G.S.PANNU)
PRESIDENT**

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Date:-23rd .08.2023

Binita, SR.P.S

Copy forwarded to:

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

AR, ITAT
New Delhi