

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 3854/DEL/2017  
Asstt. Yr: 2006-07**

DCIT, Central Circle-1, Faridabad.	<u>Vs</u>	M/s sadyoti Traders Pvt. Ltd., 5, Village Tajpur, Badarpur, New Delhi.  PAN- AAICS7343F
<b>APPELLANT</b>		<b>RESPONDENT</b>

**C.O. No. 31/Del/2021  
( In ITA No. 3854/DEL/2017)  
Asstt. Yr: 2006-07**

M/s sadyoti Traders Pvt. Ltd., 5, Village Tajpur, Badarpur, New Delhi.  PAN- AAICS7343F	<u>Vs</u>	DCIT, Central Circle-1, Faridabad.
<b>Cross objector</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	Dr. Rakesh Gupta, Adv. & Shri Somil Agarwal, Adv.
<b>Department represented by</b>	Sh. Subhra Jyoti Chakraborty, CIT(DR)
<b>Date of hearing</b>	16.10.2023
<b>Date of pronouncement</b>	18.10.2023

## **ORDER**

### **PER KUL BHARAT, JM:**

The captioned appeal preferred by the Revenue and the cross objection preferred by the assessee are directed against the order dated 10.3.2017, passed by the learned Commissioner of Income-tax (Appeals)-3, Gurgaon, pertaining to the assessment year 2006-07. Both the matters were heard together and are being disposed of by this common order for the sake of convenience.

2. The Revenue in its appeal has raised following grounds of appeal:

*“(i) Whether on the facts and circumstances of the case, the Ld. CIT(A) was right in allowing the appeal of the assessee not appreciating the fact that the addition of Rs. 3,18,00,000/- was made on account of unexplained cash credit u/s 68 of the Income Tax Act, 1961 and not on the seized documents and Circular No. 24 of the CBDT is not applicable.*

*(ii) Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in not deciding the issue on merits of the case.*

3. The assessee in its cross objection has raised following cross-objections:

*1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has rightly held that the assumption of jurisdiction u/s 153C is not in accordance with law and further held that AO of the searched person has not recorded satisfaction note with regard to the case of the appellant where proceedings were initiated u/s 153C and that too after placing reliance on the judgment of Hon’ble Delhi High Court in case of **CIT vs. RRJ Securities Ltd, (2016) 380 ITR 612** and CBDT Circular No.24/2015 dated 31-12- 2015.*

*2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has rightly held that the proceedings initiated u/s 153C of the Act being ab- initio void as the satisfaction note was not recorded by the AO of*

*the searched person.*

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have quashed the proceedings initiated u/s 153C on the other legal points also as the other mandatory conditions in accordance with law have not been met by the Ld. AO.*

4. *That having regard to the facts and circumstances of the case, Ld. CIT (A) ought to have quashed the proceedings initiated u/s 153C inter-alia on the ground that assessment in this case has already been completed u/s 143(3) vide order dated 03-10-2008 wherein after detailed examination of the case, share capital and share premium is accepted as genuine.*

5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have deleted the aggregate addition of Rs.3,18,00,000/- made by Ld. AO on account of share application money received by the assessee company as the assessee company has discharged its onus as per section 68 of Income Tax Act, 1961, more so when there was no incriminating material found as a result of search qua this issue.*

4. The assessee has also raised following additional ground in its cross-objections:

*“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned assessment order on the ground that assumption of jurisdiction u/s 153C for framing the impugned assessment order is not in accordance with law.*

2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have quashed the impugned assessment order dated 28.02.2014 passed by Ld. AO inter-alia also on the ground that the impugned assessment year i.e. AY 2006-07 is beyond the block period in view of judgment of Hon’ble High Court of Delhi in the case of ( **IT vs. RRJ Securities Ltd., (2016) 380 ITR 0612.***

3. *That in any case and in any view of the matter, the impugned assessment order dated 28.02.2014 passed by Ld. AO is without jurisdiction and bad in law.*

3. *Since the above grounds of appeal are purely legal, do not require fresh facts to be investigated and go to the root of the matter, it is prayed that the same may please be admitted in view of the following judgments:*

- *CIT vs. Sinhgad Technical Education Society, (2017) 397 ITR 0344 (SC)*
- *NTPC Ltd. vs. CIT, (1998) 229 ITR 0383 (SC)*
- *VMT Spinning Co. Ltd. vs. CIT & Anr., (2016) 389 ITR 0326 (P&H)*
- *CIT vs. Sam Global Securities, (2014) 360 ITR 0682 (Del.)*
- *Siksha vs. CIT, (2011) 336 ITR 0112 (Orissa)*
- *Inventors Industrial Corporation Ltd. vs. CIT, (1992) 194 ITR 0548 (Bom.)*

5. At the outset learned counsel for the assessee, Dr. Rakesh Gupta, submitted that the issue raised by way of cross-objection is squarely covered by the judgment of the Hon'ble Supreme Court in the case of CIT Vs. Jasjit Singh [2023] 155 taxmann.com 155 (SC). Learned counsel submitted that the impugned assessment order dated 28.02.2014 is without jurisdiction and bad in law. He contended that the assessment year in question i.e. 2006-07 is beyond the block period in view of the judgment of the Hon'ble Delhi High Court in the case of CIT vs. RRJ Securities Ltd. (2016) 380 ITR 0612, which has been affirmed by the Hon'ble Supreme Court in the case of CIT Vs. Jasjit Singh (supra). Learned counsel drew our attention to the assessment order to demonstrate that the seized documents were received in this Circle on 13.8.2013. He submitted that as per para 2 of the impugned assessment order it is stated by the AO that the assessment year in question fall within six assessment years immediately preceding the assessment year relevant to the previous year in which search was conducted. He recorded that

the search was conducted on 6.3.2012 and in response to the notice u/s 153C dated 14.11.2013 the assessee filed its return of income on 6.12.2013. He contended that the Hon'ble Supreme Court has now ruled that limitation would be reckoned from the date when the Assessing Officer of the assessee received material from the Assessing Officer of the searched party.

6. The learned DR opposed the submissions. However, he could not controvert the ratio as laid down by the Hon'ble Supreme Court in the case of CIT Vs. Jasjit Singh (supra). Learned DR also could not controvert the fact that if the limitation is reckoned from the date of receipt of material by the AO of the assessee, in that event the assessment year under consideration would fall beyond six years, as contemplated u/s 153C of the Act. Therefore, considering this admitted factual position, respectfully following the judgment of the Hon'ble Supreme Court in the case of CIT Vs. Jasjit Singh (supra), we hold that the assessment year 2006-07 would fall beyond six years as contemplated by the law. Therefore, we set aside the impugned assessment order being bad in law. The additional ground raised by the assessee in its cross objection is allowed. Since we have decided the issue of limitation in favour of the assessee, the other grounds become of academic interest only.

7. Now we take up the Revenue's appeal. In the cross objection of the assessee we have set aside the impugned assessment order, being beyond time limit as discussed hereinabove. Therefore, Revenue's appeal has no force and stands dismissed accordingly.

8. In the result, appeal of the Revenue stands dismissed and the cross-objection of the assessee is allowed.

Order pronounced in open court on 18<sup>th</sup> October, 2023.

**Sd/-**  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**  
**\*MP\***

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**