

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.1754, 1744 & 1745/Del/2023
Assessment Year: 2011-12, 2012-13 & 2013-14

DCIT Central Circle -20 New Delhi	Vs.	Rajesh Vashisht 01, 48 Ganesh Nagar, Extension, Shakarpur, S.O. East, New Delhi-110055 PAN No.AMJPV1087D
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. P.N. Barnwal, CIT DR
Respondent by	None

Date of hearing:	29/11/2023
Date of Pronouncement:	29/11/2023

ORDER

PER N. K. BILLAIYA, AM:

ITA No.1754, 1744 and 1745/Del/2023 are three separate appeals by the revenue preferred against the order of the CIT(A)-27, New Delhi dated 20.03.2023 pertaining to A.Y. 2011-12, 2012-13 and 2014-15.

2. Since the CIT(A) has decided the captioned appeals by a consolidated order and since in the captioned appeals have common grounds, therefore, they are disposed of by this common order for the sake of convenience and brevity.

3. The common grievance of the revenue read as under :-

“1. The Ld. CIT(A), Delhi has erred on facts and in law, on relying upon judgment of Hon'ble Delhi High Court dated 30.10.2015 in the case of CIT-7 vs RRJ Securities Limited and considering block of six assessment years with reference to date of handing over of seized assets/documents to the AO of the assessee i.e. person other than the searched person, instead of the date of initiation of search on searched person and holding that AY 2011-12 to AY 2013-14 are outside the scope of section 153C of the Act.

2. The Ld. CIT(A), Delhi has erred on facts and in law, on relying upon judgment of Hon'ble Delhi High Court dated 30.10.2015 in the case of CIT-7 vs RRJ Securities Limited which would lead to absurd consequence resulting in assessment under section 153C for the assessment years (i.e. AY 2018-19 & AY 2019-20), which fall later than search year (i.e. FY 2016-17), for which, no material can be found during the search on the relevant date.

3. The Ld. CIT(A), Delhi has erred on facts and in law, while not appreciating that the origin of action under Sections 153A and 153C lies in the same search action and thus, the assessment years should remain the same

notwithstanding the date of handing over of material to the AO of the other person or date of initiation of proceedings under Section 153C.

4. The Ld. CIT(A), Delhi has erred on facts and in law, in ignoring the judgment of the Hon'ble Madras High Court in the case of M/s R.K.M. Powergen Private Limited vs ACIT, dated 27.07.2022, wherein after considering the above referred judgment of Hon'ble Delhi High Court dated 30.10.2015, intention of legislature in respect of section 153C of the Act and insertion of clarificatory text vide Finance Act, 2017, it was held that the block period as applicable to a notice under Section 153C would be the same as the years constituting the block period in the case of the notice under Section 153A.

5. The Ld. CIT(A), Delhi has erred on facts and in law, in view of the Hon'ble Supreme Court Judgment in the case of Pr. CIT, Central-3 vs M/s Abhisar Buildwell Private Limited dated 24.04.2023, wherein legal position on the issue has been settled by holding that for conducting assessments under sections 153A/153C of the Act, there must be incriminating evidence indicating undisclosed income discovered during the search, thus, block of six assessment years under sections 153A/153C can only be possible prior to date of search.

5. (a) *The order of the Ld. Commissioner of Income Tax (Appeals) is erroneous and not tenable in law and on facts.*

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

4. Without going into the merits of the case a perusal of the grounds read with the order of the CIT(A) we find that the first appellate authority has decided the appeal in favour of the assessee following the binding decision of the Hon'ble Delhi High Court in the case of RRJ Securities Limited 380 ITR 612 and subsequent amendment in the section 153C of the Act w.e.f. 01.04.2017. We do not find any merit in the grievance of the revenue. If the revenue is aggrieved by the binding decision of the Hon'ble Jurisdictional High Court of Delhi (supra) the revenue may approach the Hon'ble Supreme Court but in no case the revenue can be aggrieved by the binding decision before this Tribunal.

5. In the result, the captioned appeals are dismissed.

6. Decision announced in the open court on 29.11.2023.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

NEHA

Date:- .11.2023

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER