

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER**

ITA No. 363/DEL/2018 [A.Y. 2013-14]

Manish Merchants Pvt Ltd  
Business Communication Centre-21  
Kolkata, West Bengal

Vs. The A.C.I.T  
Central Circle - 13  
New Delhi

PAN - AAFCM 1912 R

(Applicant)

(Respondent)

Assessee By : Shri Salil Agarwal, Sr. Adv  
Shri Shailesh Gupta, CA  
Shri Uma Shankar, Adv

Department By : Shri Subhra Chakraborty, CIT- DR

**Date of Hearing : 11.01.2024**  
**Date of Pronouncement : 16.01.2024**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
ld. CIT(A)-26, New Delhi dated 13.11.2017 pertaining to A.Y. 2013-14.

2. The grievances of the assessee read as under:

"1. The order of the Hon'ble Commissioner of Income Tax (A) is arbitrary, against law and facts on record.

2 The Hon'ble Commissioner of Income Tax (A) has failed to consider that the issuance of notices u/s 153C I 142(1)/143(2) of the Income Tax Act, 1961 by the learned Assessing officer and the proceedings conducted there under are against the provisions contained in the Income Tax Act, 1961 and is bad in law and hence liable to be quashed.

3 The Hon'ble Commissioner of Income Tax (A) has erred in confirming addition of Rs. 75,00,000/- made on protective basis by the Assessing officer without going through the facts of the case, statutory provisions as well as explanation filed during the course of assessment proceeding as well as during appellate proceeding and order so passed shows lack of application of mind.

4. The Hon'ble Commissioner of Income Tax (A) while confirming the addition made by the learned Assessing officer has failed to consider the fact that during the course of search no incriminating documents in respect of transaction appearing in the bank account have been found and as such addition made by the Assessing officer while passing the order u/s 153CI 143(3) is against the provision contained in the Income Tax Act, 1961.

5. The Hon'ble Commissioner of Income Tax (A) officer while confirming the addition made on protective basis has failed to consider that the substantive addition made in the hands of companies of JP Minda group has been deleted by Hon'ble Commissioner Of Income Tax (A) on the ground that the investment made by the appellant is genuine.

6. The appellant herein craves its right to alter, amend, add and *I* or withdraw any grounds of appeal and *I* or to take any additional grounds of appeal."

3. At the very outset, referring to Ground No. 4, the ld. counsel for the assessee stated that the impugned assessment order is void ab initio, in as much as, the same has been framed without there being any incriminating material for the year under consideration.

4. The ld. counsel for the assessee referred to the satisfaction note dated 29.01.2016 and placed strong reliance on the decision of the coordinate bench in one of the group cases Jagat Overseas ITA No. 6192/DEL/2017.

5. The ld. DR could not controvert to the submissions of the ld. counsel for the assessee and placed strong reliance on the orders of the authorities below.

6. We have carefully considered the orders of the authorities below and have gone through the relevant material on record.

7. Briefly stated, the facts of the case are that search and seizure operation u/s 132 of the Income-tax Act, 1961 [the Act, for short] was conducted in Minda Group of cases on 20.09.2013. During the search and seizure operation, documents belonging to the assessee were also seized from the business and residential premises of the Minda Group.

8. Following satisfaction note was drawn by the ACIT, Central Circle-13, New Delhi:

## Satisfaction note for issuance of notice u/s153C of the Income Tax Act, 1961

Name of the Assessee: M/s Manish Merchant Pvt. Ltd.

AY: 2008-09 to 2013-14

PAN: AAFCM1912R

Search and seizure action u/s 132 of Income Tax Act was carried out on 20.09.2013 in the case of Minda Group of cases. During the course of pendency of assessment proceedings in the case of Minda Group of cases AY 2008-09 to 2013-14 (u/s 153A/143(3)) the material seized from the premises of the assessee has been examined by the undersigned being the jurisdictional AO. After examining such seized material, I am satisfied that the following seized documents belong to persons other than Minda Group of cases . The details such of papers is as under:

Party No./Annexure No./Seized From	Page No. of Annexure	Brief description of documents	Person to whom the documents belongs	FY Involved
O-2/A-4 JAY USHIN LTD. GP-14 SECTOR 18 GURGAON	16	Loan Agreement dated 15 <sup>th</sup> Dec 2010 for short term finance by Manish Merchant P. Ltd. to M/s Lizer Cylinders Ltd.	M/s. Manish Merchant Pvt. Ltd.	2010-11

I have examined the above mentioned documents/papers and as the undersigned is the jurisdictional assessing officer for Minda Group of search cases (DOS:20.09.2013), I am satisfied that the provisions of section 153C are invokeable in this case for A.Y. 2008-09 to 2013-14. Accordingly this information is being passed to the jurisdictional AO of M/s Manish Merchant Pvt. Ltd. for taking necessary action u/s. 153C for A.Y. 2008-09 to 2013-14. This satisfaction note is placed in the file for record purposes.

ACIT CC-13,New Delhi

Dated :- 29/1/2016 s

9. It can be seen from the above satisfaction note that the incriminating/seized document pertains to F.Y. 2010-11 relevant to A.Y 2011-12. A.Y before us is A.Y 2013-14 and it can be safely concluded that no incriminating material was found pertaining to A.Y 2013-14 basis which the assessment could have been framed.

10. The ratio laid down by the Hon'ble Supreme Court in the case of Singhad Technical Education Society 397 ITR 344 squarely applies wherein the Hon'ble Supreme Court has held that for each A.Y of the block period, there should be separate incriminating material to frame assessment. This has been reaffirmed by the Hon'ble Supreme Court in the case of Abhisar Buildwell Pvt Ltd 454 ITR 212.

11. In light of the satisfaction note [supra] and the ratio laid down by the Hon'ble Supreme Court [supra], we are of the considered view that the impugned assessment order cannot stand on its own legs and hence quashed.

12. Since we have quashed the assessment order, we do not find it necessary to dwell into the merits of the case.

13. In the result, the appeal of the assessee in ITA No. 363/DEL/2018 is allowed.

The order is pronounced in the open court on 16.01.2024.

Sd/-

**[YOGESH KUMAR U.S.]**  
**JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: 16<sup>th</sup> JANURARY, 2024

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	