आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G. Accountant Member

आयकर अपील सं./**I.T.A. Nos.1422 & 1423/Chny/2023**
निर्धारण वर्ष/Assessment Years: 1995-96 & 1996-97

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| The Assistant Commissioner of Income Tax, Central Circle 2(2), Investigation Building, Chennai – 34. | Vs. | Thiruthuraipoondi Tiruvenkadam Vivekanandam Dhinakaran, 5, IV Street, Venkateswara Nagar, Karpagam Gardens, Adyar, Chennai 600 020.<br><br>**[PAN:ABKPD2771Q]** |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| अपीलार्थी की ओर से / Appellant by | : | Shri S. Sridhar, Advocate |
| प्रत्यर्थी की ओर से/Respondent by | : | Shri D. Hema Bhupal, JCIT |
| सुनवाई की तारीख/ Date of hearing | : | 25.03.2024 |
| घोषणा की तारीख /Date of Pronouncement | : | 05.04.2024 |

## आदेश /O R D E R

**PER V. DURGA RAO, JUDICIAL MEMBER:**

Both the appeals filed by the Revenue are directed against the common order of the ld. Commissioner of Income Tax (Appeals) 19, Chennai, dated 06.10.2023 relevant to the assessment years 1995-96 and 1996-97.

2. Brief facts of the case are that the assessee, Shri TTV Dhinakaran has filed his Return of Income for the assessment years 1995 96 and

1996-97 by admitting total income of ₹.4,57,941/- and ₹.9,92,940/- on 19.04.1995 and 21.07.1997 respectively. The Assessing Officer has initiated proceedings under section 158BC of the Income Tax Act, 1961 ["Act" in short] on 08.11.1996 for the Block Period 01.04.1986 to 15.07.1996 in consequence to the seizure of the books and documents by the Enforcement Directorate which was subsequently requisitioned and taken over by the Income Tax Department as per the Warrant of Authorization issued by the Commissioner of Income Tax, Central - 1, Chennai as per the provisions of section 132A of the Act. The Block/Search Assessment was completed under section 158BC r.w.s. 143(3) of the Act on 30.07.1997. This order was challenged before the ITAT and the ITAT, vide order dated 04.10.2000, set-aside the Block/Search Assessment back to the file of Assessing Officer.

3. During the course of set-aside assessment proceedings of the Block Assessment, the Assessing Officer has called for the details from the assessee and final proposal was served on the assessee. The assessee, thereafter, filed a Writ Petition in WP No. 7623/2002 before the Hon'ble Madras High Court against such show-cause notice. Meanwhile, the Assessing Officer, after recording the reasons under section 147 of the Act, has issued a notice under section 148 of the Act on 15.03.2002

for the assessment years 1995-96 and 1996-97. The assessee filed two other Writ Petitions in WP No. 1143, 1144/2003 against the notice issued under section 148 of the Act. In the Writ Petition, the assessee has challenged the jurisdiction of the Assessing Officer in initiating the parallel reassessment proceedings for the same issues covered in the Block/ Search Assessment for the same assessment years covered in the Block Period. The Hon'ble Madras High Court in its Interim Order dated 14.01.2003 has stayed the proceedings initiated under section 147 of the Act.

4. Further, the Hon'ble Madras High Court in its Order dated 14.12.2018 has dismissed all the WP No. 7623 of 2002 (challenged against the Block Assessment) and WP No. 1143 and 1144 of 2003 (challenged against the Proceedings initiated under section 147 of the Act) by dismissing the Writ with a direction to the assessee to co-operate for the early completion of assessment and the Department was directed to conclude all the proceedings after providing the due opportunity of being heard.

5. Since, the Hon'ble Madras High Court has directed the Assessing Officer to complete the proceedings initiated, both the Block/Search Assessment and reopened assessments, the Assessing Officer has

completed the Block/Search Assessment and reopened assessment on 31.12.2019. The assessee agitated the Block/ Search Assessment completed under section 158BC r.w.s. 143(3) of the Act before the ITAT and against the order passed under section 143(3) r.w.s. 147 of the Act for the assessment years 1995-96 and 1996-97, before the ld. CIT(A). In the order passed under section 143(3) r.w.s. 147 of the Act on 31.12.2019 for the assessment years 1995-96 and 1996-97, the Assessing Officer has made the addition of ₹52,24,82,134/- and Rs.3,80,32,884/- respectively.

6. After considering the submissions of the assessee, analysing the provisions of section 153(3) of the Act as well as by following the decision of the Tribunal in assessee's own case in I.T.(SS)A. No. 1/Chny/2020 dated 09.04.2021 relevant to the block assessment period 01.04.1986 to 31.03.1996 and 01.04.1996 to 15.07.1996, the ld. CIT(A) quashed the reassessment order passed under section 143(3) r.w.s. 147 of the Act dated 31.12.2019 by observing as under:

> *6.4.6 It may be appreciated that the Hon'ble ITAT has made a clear findings "that provisions of section 153(3) of the Act has no application and provisions of section 153(2A) should be applied". This is against the findings made by the A.O. in the Assessment Order, wherein, he has made a finding that the reassessment proceedings are not time-barred as per the section 153(3) of the Act.*
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> *6.4.7 The Hon'ble ITAT by its order dated 09.04.2021 had put curtain upon this issue by holding that the order passed by the A.O. is barred by*

*limitation as per the provisions of the section 153(3) of the Act. The Hon'ble ITAT has dealt this issue elaborately supra and finally concluded that the assessment are barred by limitation, and quashed the Assessment Order.*

*6.4.8 To observe judicial discipline, the undersigned by respectfully following the decision of the Hon'ble ITAT in ITA No. IT(SS)A No. 1/Chny/2020 dated 09.042021 it is hereby held that the reassessment order passed by the AO for the AY(s) 1995-96 and 1996-97 on 31.12.2019 are barred by limitation. Accordingly, the order(s) passed u/s 143 (3) r.w.s. 147 of the Act dated on 31.12.2019 for the AY(s) 1995-96 and 1996-97 are quashed (As held by the Hon'ble ITAT, Chennai as discussed supra) an all the grounds raised upon this issue for the AY(s) 1995-96 and 1996-97 are hereby allowed.*

7. Aggrieved, the Revenue is in appeal before the Tribunal for both the assessment years 1995-96 and 1996-97 by raising following common grounds:

*1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts of the case and in law.*

*2. The Ld.CIT(A) erred in quashing the assessment order passed u/s.143(3) r.w.s.147 dated 31/12/2019 holding that the assessment is barred by limitation.*

*2.1 The Ld.CIT(A) failed to appreciate that the assessment order was passed consequent to the directions given by the Hon'ble High Court in the Writ proceedings, and hence the provision of Sec.153(3) is clearly applicable.*

*2.2 The Ld.CIT(A) failed to appreciate that the assessee filed Writ petition challenging the proceedings initiated u/s.147 for assessment year 1995-96. When the validity of proceedings itself was under challenge by way of Writ petition, it is incorrect to infer that the AO was merely giving effect to the ITAT order for denovo assessment.*

*2.3 The Ld.CIT(A) failed to appreciate that the department has filed appeal against the order of ITAT's order in IT(SS) A No.1/Chny/2021 dated 09/04/2021 and the same is pending before the Hon'ble High Court of Madras. Hence, the issue has not attained finality.*

*3. The Ld.CIT(A) is not justified in observing that the action of the AO in initiating parallel proceedings under different sections for the same assessment year and completing the assessment proceedings, one as substantive and other as protective is not appropriate and not in accordance with the provisions of the Act.*

*3.1 The Ld.CIT(A) failed to appreciate that the assessing officer had mentioned clearly in the assessment order that since additions are made on similar issues in the block assessment order on substantive basis, the additions made in the reassessment order are considered to be protective in nature, to safeguard the interest of revenue.*

*4. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of the learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.*

The ld. DR has argued that the order of the Tribunal dated 09.04.2021 passed for the block period has not attained its finality since the Department has already preferred an appeal before the Hon'ble Madras High Court and pleaded for reversing the order passed by the ld. CIT(A).

8. On the other hand, the ld. counsel for the assessee has supported the order passed by the ld. CIT(A) by strongly relying upon the order of the Tribunal passed in assessee's own case in block assessment case.

9. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The point at issue is with regard to the validity of reassessment order passed under section 143(3) r.w.s. 147 of the Act for the assessment years 1995-96 and 1996-97 when the Tribunal has already held that the assessment

order passed under section 158BC r.w.s. 143(3) r.w.s. 254 of the Act dated 31.12.2019, which includes both the assessment year under appeal. The Assessing Officer has completed the assessment order under section 143(3) r.w.s. 147 of the Act dated 31.12.2019. for the assessment years 1995-96 and 1996-97 and additions were made protectively. Simultaneously, the Assessing Officer has also completed the block assessment order under section 158BC r.w.s. 143(3) r.w.s. 254 of the Act dated 31.12.2019 for the block period 01.04.1986 to 31.03.1996 and 01.04.1996 to 15.07.1996. Against the block assessment order, the assessee preferred an appeal before the Tribunal. After considering the submissions of the assessee, facts of the case as well as applicability of provisions of section 153(2A) of the Act, the Tribunal has held that the block assessment order passed under section 158BC r.w.s. 143(3) r.w.s. 254 of the Act dated 31.12.2019 is barred by limitation.

10. In the present case, in the assessment order passed under section 143(3) r.w.s. 147 of the Act dated 31.12.2019 for the assessment years 1995-96 and 1996-97 are already included while completing the block assessment order dated 31.12.2019, which was held to be barred by limitation by the Tribunal. We have perused the order of the Tribunal dated 09.04.2021 passed in IT(SS)A No. 1/Chny/2020 for the block

period 01.04.1986 to 31.03.1996 and 01.04.1996 to 15.07.1996, wherein, the Tribunal has observed and held as under:

> *16. We have given our thoughtful consideration to the reasons given by the Assessing Officer to consider time limit prescribed under sub-section (3) of section 153 of the Act and find that the Assessing Officer has made fundamental mistake in applying sub section (3) of section 153, because the present assessment is completed in pursuant to the order of Appellate Tribunal in setting aside the assessment order . We further noted that Tribunal has set aside the order passed by Assessing Officer for de novo consideration in accordance with material available on record and after affording reasonable opportunity of hearing to the assessee. We further noted that Tribunal has considered fundamental issue raised by the assessee in light of principles of natural justice and has not gone into discuss various additions made by the Assessing Officer in the assessment order. From the above it is clear that assessment order is set aside in total for fresh consideration by the assessing officer. Therefore, when the order is set aside for de novo assessment, then it is as good as afresh assessment is made in accordance with law and the earlier assessment made by the Assessing Officer is either cancelled or non-est in the eyes of law. Therefore, in our considered view above perception of the Assessing Officer in applying provisions of sub-section (3) of section 153 of the Act is completely erroneous, because the Hon'ble High Court in disposing of writ has only permitted the parties to complete pending proceedings arose out of order of the Appellate Tribunal in setting aside the original assessment order. Further, the provisions of section 153(3) of the Act envisages for completion of assessment or reassessment based on a finding or direction of any appellate authority or court. While in the present case, it is based on the order of the Appellate Tribunal for completing fresh assessment de novo, in view of their order in setting aside original assessment order. The courts have interpreted the term 'finding or direction, as per which finding or direction means while disposing of appeal, any appellate authority makes a direction or finding in connection with any issue or any person, then such finding or direction needs to be followed by the Assessing Officer in true spirit and hence, a provision is provided by way of sub-section (3) without any limitation, because in such cases the role of assessing officer is limited to give effect to the findings or direction of appellate authority or court. But, in a situation, where order is set aside without any restriction as to finding or direction, then such an order is set aside in toto and the Assessing Officer shall complete the assessment de novo, as if such assessment was not made in earlier occasion. In such situation, time limit prescribed u/s.153(2A) is applicable, but not provisions of section 153(3) of the Act.*

> *17. In this case, the Assessing Officer has applied provisions of section 153(3) of the Act, in view of the dismissal of writ petition of the assessee by the Hon'ble Madras High Court. However, the fact remains that impugned order was passed to giving effect to the order of Appellate Tribunal dated 04.10.2000 passed in first round and not at instance of Madras High Court decision in permitting the Assessing Officer to continue proceeding initiated in consequent to the order of Appellate Tribunal. Therefore, reliance placed by the Assessing Officer on the provisions of section 153 (3) of the Act is completely misplaced and misdirected. Because, under the existing provisions of section 153(3), such fresh assessments*

*are not subjected to any time limit, because said sub-section, in particular, did not require order passed therein to be issued within any particular time limit for simple reason that it would get attracted to a finding or direction contained in the appellate order. Since, the decision of the Hon'ble Madras High Court has only permitted to pass effect giving order in pursuant to the order of Tribunal referred hereinabove, and thus, question of application of sub-section (3) to section 153 is totally incorrect. We, further ourselves unable to agree with the contention of the Assessing Officer that when the order of assessment is completed in pursuant to the order of High Court in writ jurisdiction, the provisions of section 153 is come into operation, because the Assessing Officer himself has admitted that impugned assessment order was passed in pursuant to direction of the Tribunal passed u/s.254 of the Income Tax Act, 1961, which is evident from fact that in First page of assessment order, he has mentioned that said order is passed u/s.143(3) r.w.s 254 of the Act. Therefore, application of subsection (3) of section 153 in the given facts and circumstances of the case is completely misplaced, when there is specific provision by way of sub-section (2A) of section 153 for completing the order passed u/s.250 or 254 or 263 or 264 of the Income Tax Act, 1961. The object behind introduction of sub-section (2A) was to prescribe time limit for completing assessment proceedings upon original assessment being set aside or being cancelled in appeal. Thus, when assessment is set aside and matter is remanded, with a direction that issue has to be determined afresh, section 153(2A) of the Act would get attracted. Further, what is important to note is that along with insertion of sub-section (2A), sub-section (3) underwent simultaneous change, as per which, it was expressly made "subject to the provisions of sub-section (2A)", this means that section 153(3) would thereafter apply only to such cases, where section 153(2A) would not apply. In other words, in all instances of Assessing Officer having to pass a fresh assessment order upon remand, where section 153(2A) would only applicable, the Assessing Officer would be bound to follow the time limit imposed by sub-section (2A), whereas the Assessing Officer was only giving effect to an appellate order on any finding or direction, then section 153(3) of the Act would apply. In this case, on perusal of order of the Tribunal dated 04.10.2000, it is very clear that entire assessment order has been set aside to the file of the Assessing Officer for de novo assessment because of fundamental objection raised by the assessee in light of principles of natural justice and under those facts, the Tribunal has made categorical observation that because of violation of principles of natural justice, assessment has been set aside for de novo consideration. The Tribunal further observed that while doing set aside assessment proceedings, the Assessing Officer was directed to consider all materials available in respect of various issues and further directed the Assessing Officer to give an opportunity of hearing to the assessee. The meaning thereby is that assessment is being set aside for de novo assessment and thus, there is no question of application of provisions of section 153(3)(ii) of the Act.*

*18. Coming back to case laws relied upon by the learned A.R for the assessee. In this regard, the learned AR relied upon direct decision of Hon'ble Delhi High Court in the case of CIT Vs. Bhan Textile Pvt. Ltd. (2008) 300 ITR 176(Del), wherein the Hon'ble High Court under identical circumstances held that where the Assessing Officer was directed by Commissioner (Appeals) to pass fresh order u/s.144, meaning thereby that assessment order was set aside or cancelled and there was no independent finding or direction which the Assessing Officer 52 IT(SS)A No.1/Chny/2020 was required to comply with, it was limitation u/s.*

*153(2A) which was applicable and not limitation u/s.153(3)(ii) of the Act. The Hon'ble High Court, while confirming order of the Tribunal quashed impugned order passed by the Assessing Officer by holding that the provisions of section 153(3) has no application, where order of the Assessing Officer has been set aside by the Appellate Tribunal or Appellate Commissioner. In the said decision, the Revenue has opted to challenge only applicability of section 153(3) of the Act and apparently not objected to decision of the Appellate Tribunal in applying amended provisions incorporating restricted time limit for completing the effect giving proceedings pertaining to the proceedings as on 01.06.2001, consequent to the appellate order received by the O/o. Commissioner or PCIT after 01.04.2000. In this case, facts are identical to facts considered by the Hon'ble Delhi High Court and hence, this case is squarely covered by the decision of Hon'ble Delhi High Court.*

*19. The assessee has also relied upon the decision of ITAT, Delhi Benches in the case of Awanindra Singh Vs. DCIT (2019) 104 taxmann.com 171, where the Tribunal has accepted similar argument for quashing the effect giving order passed beyond prescribed time limit of one year in applying amended provisions taking effect from 01.06.2001. The relevant findings of the Tribunal are as under:-*

> *45. In the above proviso, the legislature has provided that where the order under Section 250 is received by the Chief Commissioner or the Commissioner on or before the 1st day of April, 1999 but before 1st day of April, 2000, in those cases, order of fresh assessment can be made at any time up to 31st March, 2002. Meaning thereby, the old provision of Section 153(2A) would be applicable in respect of cases where the order of set aside is received by the Commissioner before the 1st day of April, 2000. By necessary implication, it has to be held that when the order of set aside under Section 250 by the CIT(A) is received by the Commissioner or the Chief Commissioner after the 1st day of April, 2000, the new provision would be applicable. In the CBDT's Circular which is the explanatory notes on the provisions relating to direct taxes in Finance Act, 2001, again, the CBDT has clarified that where the appellate or revisionary order mentioned in Section 153(2A) has been received or passed, as the case may be, on or after 1st day of April, 1999 but before the 1st day of April, 2000, the existing time limit will continue. Therefore, in our opinion, the existing time limit i.e., the period of limitation of two years would be applicable only where the 28 ITA-300/Del/2001 & 5 others appellate or revisionary order setting aside an assessment is received or passed before 1st April, 2000. If the contention of the Revenue that the amended provision of Section 153(2A) would be applicable in respect of the cases where the appellate or revisionary order is received or passed after 1st June, 2001, there was no necessity of proviso to Section 153(2A) and the said proviso would become redundant. It cannot be presumed that the legislature would provide a proviso which is redundant. That in the CBDT's Circular No.14 of 2001 paragraph 68.3, it has been clearly provided "The period of two years provided for making such assessments or reassessments is more than necessary considering that the scope of such assessment or reassessment is generally limited to a few specific issues. With a view to bringing about an early finalization of such proceedings, the Act has amended sub-sections (2) and (2A) of section 153*

*to reduce the time limit for making such orders of assessment, reassessment or recomputation to one year." Thus, the legislature has taken a conscious decision to reduce the period of two years for making reassessment of set aside matters to one year. They have also consciously provided that the old provisions of two years would be applicable where such order of set aside was passed or received on or before 1st April, 2000. Thus, to our mind, there is no doubt that where the order of set aside is passed by the CIT(A) under Section 250 after 1st day of April, 2000, the new provision of Section 153(2A) providing the time limit of one year would be applicable.*

*46. We find that Hon'ble Jurisdictional High Court has also considered the applicability of limitation under Section 153(2A) in the case of Bhan Textile P.Ltd. (supra). The facts of the said case are that the assessment in respect of the assessee was completed under Section 144 on 31st March, 1999. The assessee, aggrieved by the assessment 29 ITA-300/Del/2001 & 5 others order, preferred an appeal before the CIT(A) who passed an order dated 12th May, 2000 wherein the CIT(A) passed the following order :-*

> *"It was also the case of learned counsel that the additions were made without any basis and there was no history of case which could justify such an assessment. I have considered this argument also. It is true that there is no history of case in respect of the additions made in the assessment order. At least nothing is mentioned in the order in this respect. It is also felt that the learned Assessing Officer could have specifically granted one more opportunity to the appellant to state his case in respect of the matters covered in the questionnaire. This is so because the appellant could have thought that the proceedings may be dropped after hearing the preliminary objection. Though it is mentioned in the note that the authorised representative did not agree to file any detail. Yet the Assessing Officer could have granted one more opportunity, particularly when the matter had remained pending up to March 31, 1999. It is also seen that the assessment was taken up on March 5, 1999, while the initial notice had been issued on November 27, 1997, and there was no follow up of the case in the interregnum. In view of this, I am of the view that the learned Assessing Officer should have granted one more opportunity to the appellant on proposed additions. Therefore, it is held that it will be the interest of the justice to restore the matter to the file of the Assessing Officer, so that one more opportunity may be given to the appellant to file evidence and state his case in respect of the matters covered in the show-cause notice dated March 5, 1999. Thereafter, the learned Assessing Officer may pass order under section 144 taking the explanation into account. Therefore, this matter is restored to the file of the Assessing Officer. Thus, ground No.2 of the appeal is treated as allowed."*

*47. When the matter was taken up by the Assessing Officer, he issued a notice under Section 143(2) of the Act on 24th February, 2003. The assessee claimed the notice to be barred by limitation in view of provisions of Section 153(2A). Since the assessee did not cooperate with the Assessing Officer, he completed the assessment once again as 30 ITA-300/Del/2001 & 5 others originally framed. On appeal, learned CIT(A) upheld the assessment order. The assessee preferred an appeal to the ITAT which held the assessment to be barred by limitation under Section 153(2A). Hon'ble Jurisdictional High Court upheld the order of the ITAT.*

*48. We find that the precise dispute before the Hon'ble Jurisdictional High Court was whether in respect of such an order of set aside, Section 153(2A) was applicable or Section 153(3)(iii) was applicable and Hon'ble Jurisdictional High Court held that Section 153(2A) was applicable. However, the facts are identical. That in the said case also, the order of set aside was received on 12th May, 2000 i.e., after the 1st day of April, 2000 but before 1st June, 2001 and notice under Section 143(2) issued on 24th February, 2003 which was held to be barred by limitation. Thus, this decision also supports the case of the assessee. In any case, after considering the proviso to Section 153(2A) as well as the memorandum explaining the provisions of Finance Act, 2001, we are clearly of the opinion that the amended provisions would be applicable where the appellate order is passed or received after 1st April, 2000. As per amended provision, the set aside assessment is to be completed within one year from the end of the financial year in which appellate order setting aside the assessment was received. In this case, order of learned CIT(A) is dated 27th November, 2000 though the exact date of receipt of such order by the CIT is not given before us but it can be reasonably presumed that it was received within the financial year ended on 31st March, 2001, especially when no contrary claim is made by the Revenue. In such circumstances, the set aside assessment was to be completed before 31st March, 2002 while the set aside assessment is completed on 31st March, 2003 which is clearly barred by limitation. In view of the above, we quash the assessment order dated 31st March, 2003. Once the impugned assessment order is 31 ITA-300/Del/2001 & 5 others quashed, the other grounds raised in the assessee's appeal do not require any adjudication."*

*20. In this view of the matter and considering facts & circumstances of the case, we are of the considered view that provisions of section 153(3) of the Act has no application and provisions of section 153(2A) should be applied as discussed in preceding paragraphs. As per amended provisions of section 153(2A) of the Act, time limit for completion of assessment in pursuant to order of the appeal Commissioner u/s 250 or Appellate Tribunal u/s. 254 is one year from the end of the financial year in which such an order was received by Office of Commissioner / PCIT. In this case, order of the Appellate Tribunal was passed on 04.10.2000 and such an order was received by the Office of the Commissioner on 10.11.2000. As per the amended provisions of section 153(2A), the impugned assessment order ought to have been passed on or before 31.03.2002. Because of the intervening order of the High Court in writ and stay of proceedings on 08.03.2002 and subsequent disposal of said Writ Petition on 14.12.2018 (communicated to O/o. PCIT on 13.02.2019), the period covered under operation of stay shall be*

*excluded while computing period of limitation, as per Explanation 1(ii) to section 153 of the Act and if such period is excluded, then the Assessing Officer will get 60 days clear time for completion of assessment, in view of explanation referred to in section 153 of the Act, because balance time available as on date of interim order passed by High Court was 23 days, which is less than 60 days. Since the order of Hon'ble High Court in Writ Petition was received in the Office of PCIT on 13.02.2019 and the Assessing Officer has sixty days clear time to pass order giving effect order and if such 60 days is considered for limitation period, then the Assessing Officer ought to have passed assessment order on 14.04.2019. In this case, the impugned order was passed on 31.12.2019. Therefore, we are of the considered view that the assessment order passed u/s. 158BC r.w.s 143(3) / 254 dated 31.12.2019 is barred by limitation and liable to be quashed. Accordingly, the assessment order is quashed.*

*21. The assessee has raised various grounds to challenge additions made by the Assessing Officer in the assessment. Since the assessment order passed by the Assessing Officer is annulled, because the order is barred by limitation, other grounds taken by the assessee challenging various additions become academic in nature and does not require specific adjudication. Hence, all other grounds taken by the assessee are dismissed as infructuous.*

*22. In the result, appeal filed by the assessee is allowed."*

11. From the above decision, after elaborately discussing the issue in detail in support of various case law, the Tribunal has made it clear that the provision of section 153(3) of the Act has no application and the provisions of section 153(2A) should be applied in that case and accordingly, the Tribunal has quashed the assessment order passed under section 158BC r.w.s. 143(3) of the Act dated 31.12.2019 relevant to the block assessment period from 01.04.1986 to 31.03.1996 and 01.04.1996 to 15.07.1996 for the reason that the assessment was barred by limitation. By following the above decision of the Tribunal, the ld. CIT(A) has rightly quashed the reassessment order passed by the

Assessing Officer for the assessment years 1995-96 and 1996-97 under section 143(3) r.w.s. 147 of the Act dated 31.12.2019.

12. The main contention of the ld. DR is that the order passed in IT(SS)A No. 1/Chny/2020 dated 09.04.2021 was not accepted by the Department and preferred further appeal before the Hon'ble High Court of Madras. Prima facie, the ld. DR could not controvert the decision of the Tribunal in block assessment period. Secondly, the ld. DR has not brought on record and higher Courts decision having modified or reverted the decision of the Tribunal. Respectfully following the decision of the Tribunal, the ld. CIT(A) has correctly decided the legal issue and we find no reason to interfere with the order passed by the ld. CIT(A). Thus, the ground raised by the Revenue stands dismissed.

13. The Revenue has also raised another ground that the ld. CIT(A) was not justified in observing that the action of the Assessing Officer in initiating parallel proceedings under different sections for the same assessment year and completing the assessment proceedings, one as substantive and other as protective is not appropriate and not in accordance with the provisions of the Act.

14. On perusal of the assessment orders passed by the Assessing Officer for both in set-aside proceedings of the block assessment as well

as reassessment order, it could be evident that during the course of set-aside proceedings of the block assessment, the Assessing Officer has issued a final show cause against which the assessee filed a writ petition against such show cause notice vide WP No. 7623/2002. During the pendency of the Writ Petition, the Assessing Officer, based upon the same information which warranted the Assessing Officer to invoke the provisions of section 158BC of the Act for the same assessment years, has chosen to issue a notice under section 148 of the Act on 15.03.2002. The Assessing Officer completed the assessment on 31.12.2019 protectively for the AY(S) 1995-96 and 1996-97 under section 143(3) r.w.s 147 of the Act. On the same date the Assessing Officer has also completed the assessment under section 158BC of the Act by making the same addition for the block period 01.04.1986 to 15.07.1996. Without appreciating the concept of protective addition, the Assessing Officer has invoked the provisions of section 147 of the Act on the same set of information which warranted him to invoke the provisions of section 158BC of the Act for the same assessment years and for the same issues are found to be incorrect. The ld. CIT(A) has rightly observed that the Assessing Officer has initiated parallel proceedings under different sections for the same assessment years and completed the assessment proceedings, one as substantive and the other as protective are appears

to be inappropriate and not in accordance with any of the provisions under the Income Tax Act. We find no reason to interfere with the order passed by the ld. CIT(A) and thus, the ground raised by the Revenue stands dismissed.

15. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced on 05th April, 2024 at Chennai.

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| Sd/- | Sd/- |
| (MANJUNATHA, G.) | (V. DURGA RAO) |
| ACCOUNTANT MEMBER | JUDICIAL MEMBER |

Chennai, Dated, 05.04.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:
1. अपीलार्थी/Appellant,
2.प्रत्यर्थी/ Respondent,
3.आयकर आयुक्त/CIT,
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.