

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3942/Del/2023
Assessment Year 2014-15

Baboo Ram Hari Chand 2114, Khari Baoli Delhi	Vs.	DCIT, Central Circle-29 New Delhi
TAN/PAN: AAAFB2868D		
(Appellant)		(Respondent)

Applicant by:	Shri Prahlad Rai Jain, AR		
Respondent by:	Shri Amit Katoch, Sr.DR		
Date of hearing:	18	06	2024
Date of pronouncement:	27	06	2024

ORDER

PER PRADIP KUMAR KEDIA - A.M.:

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-30, New Delhi ('CIT(A)' in short) dated 27.10.2023 arising from the penalty order dated 23.09.2022 passed by the Assessing Officer (AO) under Section 271(1)(b) of the Income Tax Act, 1961 (the Act) concerning A.Y. 2014-15.

2. As per the grounds of appeal, the assessee has challenged the imposition of penalty of Rs.60,000/- on account of alleged non-compliance of various statutory notices issued for the purposes of carrying out assessment under Section 153C r.w. Section 143(3) of the Act.

3. On perusal of the case records, it is observed that original

return of income in the present case was filed on 30.11.2014 declaring income of Rs.22,35,700/-. Subsequently, the AO initiated proceedings under Section 153C of the Act. The AO issued notice under Section 142(1) r.w. Section 143(2) of the Act which allegedly remained uncomplied with. The AO accordingly imposed penalty of Rs.10,000/- for non-compliance of each notice issued under Section 142(1) of the Act while framing the assessment under Section 153C r.w. Section 143(3) of the Act.

4. Before the First Appellate Authority, the assessee pointed out that the proceedings under Section 153C itself is vitiated by lack of jurisdiction and initiated without any material and documents pertaining to the assessee found in the course of search of other person. Despite several requisitions, the AO failed to provide copy of documents and material purportedly seized as required under law for valid initiation of proceedings under Section 153C. The assessee thus sought reversal of the imposition of penalty which was declined by the CIT(A) vide order dated 27.10.2023.

5. Hence the present appeal.

6. The assessee contends that notice issued under Section 153C and consequent proceedings in which the penalty was imposed for non-compliance of the notices is, at the first instance, outside the ambit of the assessment under Section 153C of the Act. The A.Y. 2014-15 in question is outside the purview of Section 153C owing to the fact that the 'satisfaction note' giving rise to jurisdiction under Section 153C has been recorded in the previous year 2022-23 relevant to A.Y. 2023-24 when six years are counted with reference to such assessment year. The assessee contends that such view is fortified from the judgment in the case of *CIT vs Jasjit Singh [2023] 155 Taxmann.com 155 (SC)*. It was contended that by virtue of such

judgment, the previous year of search would stand substituted by the date or the year in which books of account or documents etc. are handed over to the jurisdictional Assessing Officer. In the light of such observations, the A.Y. 2014-15 is out of reckoning for the purposes of Section 153C of the Act.

5. On perusal, two relevant facts come to surface. Firstly, the assessment has been ultimately carried out under Section 143(3) of the Act. Hence, the assessee cannot be treated as chronic defaulter. Secondly, the assessee has raised question mark on the assumption of jurisdiction itself. Without going into the merits of the contentions raised on behalf of the assessee on the aspects of jurisdiction in view of later amendments in main provisions of Section 153C of the Act by the Finance Act, 2017, we are of the view that the extenuating circumstances exists to reverse the penalty imposed under Section 153C of the Act. The penalty imposed under Section 271(1)(b) in dispute is thus cancelled.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 27th June, 2024.

Sd/-

**[SUDHIR KUMAR]
JUDICIAL MEMBER**

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: June, 2024
Prabhat