

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : E : NEW DELHI
BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.38/Del/2024
Assessment Year: 2012-13

MG Fincap (P) Ltd.,
E-9, Ground Floor (Front Portion),
Saket,
New Delhi – 110 017.

Vs DCIT,
Central Circle-16,
Delhi.

PAN: AAACM1148A

(Appellant)

(Respondent)

Assessee by : Dr. Rakesh Gupta, Advocate &
Shri Deepesh Garg, Advocate

Revenue by : Shri Subhra Jyoti Chakraborty, CIT-DR

Date of Hearing : 29.04.2024

Date of Pronouncement : 26.07.2024

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order of the Commissioner of Income Tax (Appeals) (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') arising out of the appeal before it against the order dated 27.12.2022 passed u/s 153C r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act'), by the ACIT, Central Circle-16, Delhi (hereinafter referred to as the Ld. AO).

2. A search u/s 132 of the Act was conducted in the case of Shri Rakesh Jain group on 02.11.2017 and Shri Prahlad Kumar Agarwal was also covered under the search operation. During the course of assessment proceedings u/s 153A in case of Shri Prahlad Kumar Agarwal and on perusal of the seized data/documents in case of Rakesh Jain group of cases, certain documents were found pertaining to the assessee and information contained in search documents allegedly pertaining to the assessee were considered and the AO of the searched person recorded his satisfaction on 29.06.2021 and handed over the seized material to the AO of the 'other person', i.e., the assessee. Based upon the seized material, satisfaction note was recorded by the AO of the assessee on 30.06.2021 and, accordingly, finding the conditions of section 153C fulfilled, assessment was initiated u/s 153C of the Act and the same was completed by making an addition of which Rs.57,27,600/- as unexplained money of the assessee u/s 69A of the Act. The same was challenged before the CIT(A) by raising various grounds including that assumption of jurisdiction u/s 153C was illegal and bad in law. It was pleaded before the CIT(A) that assumption of jurisdiction u/s 153C on 30.06.2021 by recording reasons on that date and issuing notice dated 29.08.2021 u/s 153C based on the reasons recorded on 29.06.2021 by the AO on Shri Prahlad Kumar Agarwal was not valid and was barred by limitation. As the assessment of the searched person, namely, Shri Prahlad Kumar Aggarwal was made on 30.12.2019 u/s 153A of the Act and jurisdiction u/s 153C of the Act could be assumed within six months from the

date of assessment order of the searched person and reliance was placed on the judgement of the Hon'ble Supreme Court in the case of *CIT-3 vs. Calcutta Knitwares (2014) 43 taxmann.com 446*. However, this ground was not sustained. Now, before us, an additional ground has been raised challenging the assessment to be barred by limitation as follows:-

"1. That having regard to the facts and circumstances of the case, impugned assessment order dated 27.12.2022 is bad in law in view of the latest Judgement of Jurisdictional High Court i.e. Hon'ble High Court of Delhi in the case of Pr. CIT vs. Ojjus Medicare Pvt. Ltd. & Ors., ITA No.52/2024 & Ors., dated 03.04.2024 in which Hon'ble court have held that preceding ten years for reopening the case would be seen from the end of the assessment year in which books of account etc. pertaining to the assessee company were handed over to the AO of assessee company. Since, admittedly in the instant case books of account were handed over to the AO of Assessee Company in AY 2022-23, hence ten years period would not cover the year under consideration.

Since the above ground of appeal is purely legal, does not require fresh facts to be investigated and goes to the root of the matter, it is prayed that the same may please be admitted in view of the following judgements:

- *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.)"*

3. The ld. counsel for the assessee has primarily relied the judgement of the Hon'ble Delhi High Court in the case of *Pr. CIT vs. Ojjus Medicare Pvt. Ltd. & Ors., ITA No.52/2024 & Ors., dated 03.04.2024*, where the issue of identifying the relevant assessment year for the purpose of computing the ten

year block has been examined and in paras 89 and 90, the Hon'ble High Court has observed as follows:-

“89. That takes us then to the issue of identifying the “relevant assessment year” for the purposes of computing the ten year block. Explanation 1 to Section 153A specifies the manner in which the entire ten AY period is to be computed. While the computation of six AYs’ follows the position as enunciated and identified above, Explanation 1 prescribes that the ten AYs’ would have to be computed from the end of the AY relevant to the FY in which the search was conducted or requisition made. The ten AY period consequently is to be reckoned from the end of the AY pertaining to the previous year in which the search was conducted as distinct from the preceding year which is spoken of in the case of the six relevant AYs’.

90. Viewed in that light, and while keeping the period of 01 April 2021 to 31 March 2022 as the constant, the relevant AY would be AY 2022-23. The ten AYs’ would have to be computed from 31 March 2023 with the said date indubitably constituting the end of the AY relevant to the previous year of search. Viewed in light of the above, the block period of 10 AYs’ would be as follows:-

Computation of the ten-year block period as provided under Section 153C read with Section 153A of the Act	No. of years
AY 2022-23	1
AY 2021-22	2
AY 2020-21	3
AY 2019-20	4
AY 2018-19	5
AY 2017-18	6
AY 2016-17	7
AY 2015-16	8
AY 2014-15	9
AY 2013-14	10

4. Since the additional ground is purely based on question of law and admitted facts, the same is admitted.

5. Then we find that admittedly in the case of assessee books of account were handed over to the AO of Assessee Company in AY 2022-23, hence ten years period would not cover the year under consideration. In Para 97-98 of the judgment in case of *Ojjus Medicare Pvt. Ltd. (supra)* Hon'ble High Court has specifically dealt with the cases where accounts were handed over in FY 2022-23 and 2023-24, and held that so far AY 2010-11, 2011-12 and 2012-13 are concerned they fall beyond the "relevant assessment year". Same squarely applies to the case of assessee. In the light of the aforesaid, we allow the additional ground.

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

Order pronounced in the open court on 26/07.2024.

(G.S. PANNU)
VICE PRESIDENT

Dated: 26th July, 2024.

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Copy forwarded to:

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

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi