

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 2627, 2628 & 2629/Del/2023  
(Assessment Year: 2012-13 to 2014-15)**

DCIT,  
Central Circle-20,  
Delhi

(Appellant)

**PAN:AAFPA3687G**

Vs. Rajiv Agarwal,  
705/3, Nai Basti Mehrauli,  
New Delhi

(Respondent)

Assessee by :  
Revenue by :

Shri Gaurav Jain, Adv  
Shri P. N. Barnwal, CIT DR

Date of Hearing 05/06/2024  
Date of pronouncement 29/08/2024

**ORDER**

**PER M. BALAGANESH, A. M.:**

1. These appeals in ITA Nos.2627,2628 & 2629/Del/2023 for AYs 2012-13 to 2014-15, arises out of the order of the Commissioner of Income Tax (Appeals)-27, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 14.07.2023 against the order of assessment passed u/s 153C r.w.s. 153A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 31.12.2021 by the DCIT, Central Circle-20, New Delhi (hereinafter referred to as 'Id. AO').
2. Identical issue is involved in all these appeals and hence they are taken up together and disposed by this common order for the sake of convenience.
3. The revenue has raised the following grounds of appeal before us for the Asst Year 2012-13 :-

"1. The Ld. CIT(A), Delhi has erred on facts and in law, on relying upon the judgment of Hon'ble Delhi High Court, in the case of CIT-7 vs RRJ Securities Limited, dated 30.10.2015 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 2012-13 to AY 2014-15 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 the judgment of Hon'ble Delhi High Court, in the case of CIT-7 vs RRJ Securities Limited, dated 30.10.2015, which would lead to absurd consequence resulting in assessment under section 153C for the assessment years (i.e. AY 2018-19, AY 2019-20 & AY 2020-21), which fall later than the 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, while not appreciating the fact that the date referred to in the first proviso to the section 153C of the Act, [which is to be construed as date mentioned in Second proviso to the section 153A(1)], is only relevant for determining the "date", as on which, any pending assessment or reassessment, if any, falling within the block period, is needed to be abated, and the same has no relevance in deciding the seven (1+6) years needed to be selected for scrutiny u/s 153C of the Act.

5. The Ld. CIT(A), Delhi has erred on facts and in law, in ignoring the judgement 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 judgement 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.

6. The Ld. CIT(A), Delhi has erred on facts and in law, in view of the Hon'ble Supreme Court judgement 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 the date of search.*

*7. (a) Whether on law and facts of the case the order of the Ld. CIT(A) is erroneous and not tenable in law and on facts.*

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

4. We have heard the rival submissions and perused the materials available on record. A search and seizure operation u/s 132 of the Act was carried out by the Income Tax Department at the premises of M/s Paras Mal Lodha Group on 28.06.2016. During the course of that search, certain documents were found and seized which were pertaining to Shri Rajiv Agarwal (assessee herein). Therefore those documents were handed over to the AO of the assessee herein by the AO of the searched person, for which a satisfaction note stood recorded by the AO of the searched person vide letter dated 16.12.2020. This satisfaction note is enclosed in Pages 3 to 7 of the Paper Book dated 31.05.2024. The AO of the assessee herein received all the documents from the AO of the searched person on 02.03.2021. Hence as per the decision of Hon'ble Supreme Court in the case of CIT vs Jasjit Singh reported in 458 ITR 437 (SC), the date of handing over of documents by the AO of the searched person would have to be construed as the date of search in the hands of the assessee herein. Accordingly, the date of search in the hands of the assessee would be 02.03.2021. Hence it was submitted that the years under consideration would fall beyond the 6 years time limit for which action u/s 153C of the Act could be taken on the assessee. Hence no proceedings u/s 153C of the Act could be initiated on the assessee for the years under consideration.

5. We find that the Id. CIT(A) had duly appreciated the aforesaid legal contentions of the assessee by observing as under:-

*"6. Ground No. 1 of appeal relates to that AYs. 2012-13, 2013-14 & 2014-15 are not covered within the block of 6 years from the year of recording satisfaction 153C of the Act in terms of first proviso thereof.*

*6.1 The appellant has contended that as per first proviso to the section 153C of the Act, six assessment years are to be counted from the date of receiving books of account or documents or assets seized or requisitioned by the AO having jurisdiction over such other person.*

*6.2 In support of his contention, the appellant has relied upon various judicial pronouncements including the decision of the jurisdictional High Court i.e. Hon'ble Delhi High Court in the case of Commissioner of Income Tax-7 vs RRJ Securities Ltd. dated 30 October, 2015. The appellant has also relied upon subsequent amendment in the Section 153C of the Act w.e.f. 01.04 2017 being prospective in nature.*

*6.3 The Hon'ble Delhi High Court in the case of Commissioner of Income Tax-7 vs RRJ Securities Ltd. dated 30th October, 2015 has held that in no uncertain terms that the six assessment years for which assessment/reassessment could be made u/s 153C would have to be construed with reference to the date of receipt of assets/documents by the Assessing Officer of the such other person. The relevant part of the Hon'ble Delhi High Court's order is reproduced here as under:*

*"21. As discussed hereinbefore, once the AO of the searched person is satisfied that the seized assets/documents belong to another person and the said assets/documents have been transferred to the AO of such other person, the proceedings for assessment/reassessment of income of the other person has to proceed in accordance with provisions of Section 153A of the Act. Section 153A requires that where a search has been initiated under Section 132 of the Act, the AO is required to issue notice requiring the noticee to furnish returns of income in respect of six assessment years relevant to the six previous years preceding the previous year in which the search is conducted. As discussed hereinbefore, by virtue of second proviso to Section 153A, the assessment/reassessment pending on the date of initiation of search abate. In the context of proceedings under Section 153C of the Act, the reference to the date of initiation of the search in the second proviso to Section 153A has to be construed as the date on which the AO receives the documents or assets from the AO of the searched person. Thus, by virtue of second proviso to Section 153A of the Act as it applies to proceedings under Section 153C of the Act, the assessment/reassessment pending on the date on which the assets/documents are received by the AO would abate. In respect of such assessments which have abated, the AO would have the jurisdiction to proceed and make an*

*assessment. However, in respect of concluded assessments, the AO would assume jurisdiction to reassess provided that the assets/documents received by the AO represent or indicate any undisclosed income or possibility of any income that may have remained undisclosed in the relevant assessment years.*

*22. The aforesaid principles would be equally applicable to proceedings initiated under Section 153C of the Act as Section 153C(1) of the Act expressly provides that once the AO has received "money, bullion, jewellery or other valuable articles or thing or books of account or documents seized" from the AO of the searched person, he would proceed to assess or reassess the income of the person to whom such assets/books belong in accordance with Section 153A of the Act.*

*23. In the present case, the Assessee had claimed that the assessments for the concerned assessment years were not pending on the date of recording of satisfaction by the AO and, therefore, would not abate by virtue of the second proviso to Section 153A of the Act. Further, the period of six years would also have to be reckoned with respect to the date of recording of satisfaction note that is, 8th September, 2010 - and not the date of search.*

*24. As discussed hereinbefore, in terms of proviso to Section 153C of the Act, a reference to the date of the search under the second proviso to Section 153A of the Act has to be construed as the date of handing over of assets/documents belonging to the Assessee (being the person other than the one searched) to the AO having jurisdiction to assess the said Assessee. Further proceedings, by virtue of Section 153C(1) of the Act, would have to be in accordance with Section 153A of the Act and the reference to the date of search would have to be construed as the reference to the date of recording of satisfaction. It would follow that the six assessment years for which assessments/reassessments could be made under Section 153C of the Act would also have to be construed with reference to the date of handing over of assets/documents to the AO of the Assessee. In this case, it would be the date of the recording of satisfaction under Section 153C of the Act, te., 8th September, 2010. In this view, the assessments made in respect of assessment year 2003- 04 and 2004-05 would be beyond the period of six assessment years as reckoned with reference to the date of recording of satisfaction by the AO of the searched person. It is contended by the Revenue that the relevant six assessment years would be the assessment years prior to the assessment year relevant to the previous year in which the*

*search was conducted. If this interpretation as canvassed by the Revenue is accepted, it would mean that whereas in case of a person searched, assessments in relation to six previous years preceding the year in which the search takes place can be reopened but in case of any other person, who is not searched but his assets are seized from the searched person, the period for which the assessments could be reopened would be much beyond the period of six years. This is so because the date of handing over of assets/documents of a person, other than the searched person, to the AO would be subsequent to the date of the search. This, in our view, would be contrary to the scheme of Section 153C(1) of the Act, which construes the date of receipt of assets and documents by the AO of the Assessee (other than one searched) as the date of the search on the Assessee. The rationale appears to be that whereas in the case of a searched person the AO of the searched person assumes possession of seized assets/documents on search of the Assessee; the seized assets/documents belonging to a person other than a searched person come into possession of the AO of that person only after the AO of the searched person is satisfied that the assets/documents do not belong to the searched person. Thus, the date on which the AO of the person other than the one searched assumes the possession of the seized assets would be the relevant date for applying the provisions of Section 153A of the Act. We, therefore, accept the contention that in any view of the matter, assessment for AY 2003-04 and AY 2004-05 were outside the scope of Section 153C of the Act and the AO had no jurisdiction to make an assessment of the Assessee's income for that year."*

*6.4 Now, the facts of the case are as under:*

*i. A search & seizure action u/s 132 of the Act was conducted on 28.06.2016 in Paras Mal Lodha Group of cases. During the search operation, it was found that Sh. Paras Mal Lodha was involved in money laundering and Hawala operations within and outside India.*

*II. During the assessment proceedings of Sh. Paras Mal Lodha, it was analyzed by the Id. AO that many files pertaining to Hawala transactions pertains to the appellant Le. Sh. Rajiv Agarwal.*

*iii. Satisfaction note by the AO (Central Circle-16, Delhi) of Sh. Paras Mal Lodha was recorded on 02.12.2020 and books of account or documents or assets seized along with satisfaction note were received by the AO (Central Circle-20, Delhi) having jurisdiction over the case of the appellant on 02.03.2021.*

*iv. Thereafter, satisfaction note for issuance of notice u/s 153C of the Act was recorded on 17.06.2021 by the AO having jurisdiction over the case of the appellant and notice u/s 153C of the Act was issued on 17.06.2021.*

*6.5 In this case, date of search is 28.06.2016 which is prior to amendment in the Section 153C of the Act w.e.f. 01.04.2017 and amendment is prospective in nature. Therefore, the case of the appellant is not covered under the provisions of said amendment.*

*6.6 As in this case, books of account or documents or assets seized along with satisfaction note were received by the AO (Central Circle-20, Delhi) having jurisdiction over the case of the appellant on 02.03.2021, therefore, six assessment years prior to receiving books of account or documents or assets seized, work out to be AY 2015-16 to AY 2020-21.*

*6.7 In view of above facts of the case and respectfully following the decision of the Hon'ble Delhi High Court and subsequent amendment in the Section 153C of the Act w.e.f 01.04.2017, it is held that AYs. 2012-13, 2013-14 & 2014-15 are outside the scope of Section 153C of the Act and the AO had no jurisdiction to make an assessment of the Assessee's income for these years. Therefore, the following additions made by the Id. AO are deleted and this ground of appeal is hereby allowed*

A.Y.	Amount of addition to be deleted ( in Rs.)	Nature of addition	Section under which addition was made
2012-13	25,12,14,500	Unexplained money	69 A
2013-14	4,49,00,000	Unexplained money	69A
2013-14	31,00,000	Unexplained money	69A
2014-15	3,47,65,966	Unexplained money	69A

*7. In view of the decision at para 6 above, the other grounds of appeal are not adjudicated separately as it will have only academic value.*

*8. In the result, the appeals of the appellant for AYs. 2012-13 to 2014-15 are "Allowed".*

6. None of the aforesaid findings could be controverted by the revenue before us with cogent evidences. We find that the Id. CIT(A) had placed reliance on the decision of Hon'ble Jurisdictional High Court in the case of RRJ Securities supra, which proposition stood subsequently approved by the Hon'ble Apex Court in the case of Jasjit Singh referred

supra. Hence we do not find any infirmity in the order passed by the Id. CIT(A). Accordingly, the grounds raised by the revenue are dismissed.

7. The decision rendered hereinabove for Asst Year 2012-13 shall apply mutatis mutandis for Asst Years 2013-14 and 2014-15 also except with variance in figures, in view of identical facts.

8. In the result, all the appeals of the revenue are dismissed.

Order pronounced in the open court on 29/08/2024.

-Sd/-  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 29/08/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT 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	