

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, PUNE**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.822/PUN/2024**

**निर्धारण वर्ष / Assessment Year: 2009-10**

Ramdas Chabaji Dhankude, 1053, Matruda Gokhale Road, Shivaji Nagar, Pune 411 016 Maharashtra PAN : ABBPD1623Q	<b>बनाम / V/s.</b>	ACIT, Central Circle-2(4) Pune
.....अपीलार्थी / Appellant		.....प्रत्यर्थी / Respondent

Assessee by : Shri Suhas Bora  
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 04.09.2024

घोषणा की तारीख / Date of Pronouncement : 04.09.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the appellant directed against the order of CIT(A), Pune-12 dated 20.03.2024 passed u/s 250 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) for the assessment year 2009-10.

2. Briefly, the facts of the case are that the appellant is an individual and no regular return of income was filed by the appellant for the A.Y. 2009-10. Subsequently, based on the documents stated to be incriminating pertaining to the appellant found during the course of

search and seizure operations carried out u/s.132 of the Act on 19.12.2017 in the case of Baburao Dattareya Chandere, the Assessing Officer (AO) of the searched person recorded satisfaction on 09.12.2019. The same was forwarded to the jurisdictional Assessing Officer of the appellant after recording satisfaction as envisaged u/s.153C on 16.10.2020 issuing notice for the A.Y. 2009-10. In response to the same, the appellant filed the return of income on 23.02.2021 disclosing total income of Rs.1,01,426/-. Against the said return of income, the assessment was completed by the AO at a total income of Rs.1,65,50,710/- vide order dated 11.05.2021 passed u/s.143(3) r.w.s.153C of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide impugned order confirmed the action of the Assessing Officer.

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. The appellant has raised the following additional ground challenging the validity of the assessment on the ground of limitation :

*“On the facts and circumstances of the case, the assessment order passed by the learned AO u/s.143(3) r.w.s.153C of the Act on 11.05.2021 is bad in law and void ab-initio on account of following :*

*a. The assessment year falls beyond stipulated six assessment years and four relevant assessment years, considering the satisfaction note recorded by the Assessing Officer of the searched person u/s.132 of the Act and Assessing Officer of the other person as required u/s.153C of the Act.*

*b. The notice u/s.153C of the Act issued by the learned AO on 29.01.2021 is barred by limitation and thus bad in law and void ab-initio.”*

6. The ld. Authorized Representative for the appellant submits that the issue is purely legal in nature which does not require any

verification of facts. Therefore, the additional ground of appeal may be admitted for adjudication in view of the law laid down by the *Hon'ble Supreme Court in the case of the National Thermal Power Co. Ltd. v. CIT [1998] 229 ITR 383 (SC)*.

7. The ld. AR further contended that the Assessing Officer of the searched person recorded the satisfaction on 16.10.2020 and therefore, the period of limitation of six years should be reckoned from the date of recording of satisfaction. Thus, he submits that the period of six years in the present case had elapsed.

8. The ld. CIT-DR while supporting the order of the CIT(A) objects to the admission of additional ground. The objection of the ld. CIT-DR is overruled as the additional ground raised by the appellant is purely legal and goes to the root of the matter.

9. After hearing both the sides and considering the fact that the additional ground raised by the assessee is purely legal one and all the material facts are available on record and no new facts are required to be investigated, therefore, in view of the decision of Hon'ble Supreme Court in the case in the case of *the National Thermal Power Co. Ltd. v. CIT (supra)*, the additional ground raised by the appellant is admitted for adjudication.

10. We heard the rival submissions and perused the material on record. We proceed to adjudicate the additional ground first as it goes to very root of the matter. In the present case, the search and seizure action u/s.132 of the Act was conducted in the case of Baburao Dattareya Chandere on 19.12.2017, wherein certain incriminating material pertaining to the appellant herein is stated to have been found and seized. The satisfaction by the Assessing Officer of searched person was recorded on 09.12.2019. In terms of 4<sup>th</sup> proviso to section 153C, the period of ten assessment years should be reckoned from the

date of recording of satisfaction by the Assessing Officer or handing over of the documents or upon the receipt of materials from the Assessing Officer of the searched person. In this case, 16.10.2020 is the date of handing over of the materials to the jurisdictional Assessing Officer by the Assessing Officer of the searched person. Therefore, the period of ten years is to be reckoned from the end of the assessment year relevant to the previous year in which the material was handed over to the Assessing Officer of the appellant. Based on this, the period of ten years would have to be computed from 31.03.2021 and in the light of this position the block period of ten assessment years would be as follows :

Computation of the ten-year block period as provided u/s.153C r.w.s. 153A of the Act	No. of years
AY 2020-21	1
AY 2019-20	2
AY 2018-19	3
AY 2017-18	4
AY 2016-17	5
AY 2015-16	6
AY 2014-15	7
AY 2013-14	8
AY 2012-13	9
AY 2011-12	10
AY 2010-11	--
AY 2009-10	--

From the above table, it would be clear that AY 2020-21 forms the first year of the block period of ten assessment years and would be ending on AY 2011-12. The assessment years 2010-11 and 2009-10 shall fall outside the block period of ten assessment years. In the light of this discussion, the assessment made for the year under consideration, i.e. 2009-10 is barred by limitation. Our view is fortified by the judgment rendered by the Hon'ble Delhi High Court in the case of *PCIT Vs. Ojjus Medicare Pvt. Ltd. (2024) 465 ITR 101*

(Delhi). Accordingly, the appellant succeeds in the additional ground raised.

11. Since we have allowed the legal ground raised by the appellant in his favour, the other grounds raised on merits become academic, requiring no adjudication.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 04<sup>th</sup> September, 2024.

Sd/-  
**S.S. GODARA**  
**JUDICIAL MEMBER**

Sd/-  
**INTURI RAMA RAO**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> September, 2024

Satish

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /  
DR 'B', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune