

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'H', NEW DELHI**

**BEFORE PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &  
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No. 936/Del/2024 : Asstt. Year : 2021-22**

Tejinder Kaur, A-38, Sector-50, Noida H.O., Gautam Buddha Nagar, Uttar Pradesh-201301  <b>PAN No. AALPK6683J</b> <b>(APPELLANT)</b>	Vs.	ACIT, Central Circle-31, New Delhi  <b>(RESPONDENT)</b>
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Assessee by	Shri Ved Jain, Adv., Shri Aman Garg, CA & Ms. Bulbul Singhal, CA
Revenue by	Shri Surender Pal, CIT-DR

Date of hearing:	18.07.2024
Date of Pronouncement:	11.10.2024

**ORDER**

**PER PRADIP KUMAR KEDIA, AM :**

The captioned appeal has been filed by the assessee against the order of Commissioner of Income Tax (Appeals) –30, [the CIT(A)], New Delhi dated 31.01.2024 arising from the Assessment Order dated 30.12.2022 passed by the DCIT, Central Circle-31, New Delhi (hereinafter referred to as ‘AO’) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning Assessment Year 2021-22.

2. As per the grounds of appeal, the assessee has challenged additions of Rs.58,00,000/- made by the AO under Section 45 of the Act towards under reporting of sale consideration of immovable property while framing the Assessment Order under Section 143(3) of the Act.

3. The assessee has also raised additional grounds under Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963. The additional grounds raised by the assessee read as under:

*"8. On the facts and circumstances of the case, the learned AO has erred in considering the assessment year under consideration as the assessment year relevant to the previous year in which search was conducted and consequently passing the assessment order under section 143(3) of the Act instead of section 153C of the Act.*

*9. On the facts and circumstances of the case, assessment order is otherwise liable to be quashed in the absence of notice being issued under section 153C of the Act.*

*10. On the facts and circumstances of the case, the assessment proceedings initiated without complying with the provision of section 153C of the Act is bad in law and without jurisdiction and the same is liable to be quashed."*

4. When the matter was called for hearing, the Id. Counsel, at the outset, urged for admission of additional grounds and submitted that the additional grounds are legal in nature for which relevant facts are available on record. The legal ground raised goes to the root of the matter and thus calls for adjudication at the preliminary stage itself. Having regard to the nature of additional grounds, the same is admitted for adjudication.

5. The relevant facts concerning the additional grounds are that the assessee for A.Y. 2021-22 in question, filed return of income dated 27.12.2021 under Section 139(1) of the Act declaring total income of Rs.17,38,560/-. The case of the assessee was selected for scrutiny assessment by issuance of notice under Section 143(2) of the Act dated 13.06.2022. Consequently, the assessment was framed under Section 143(3) of the Act vide order dated 30.12.2022.

5.1 In this context, the Id. Counsel pointed out that a search and seizure action was conducted on Hans Group under Section 132 of the Act. Based on the seized documents/digital data and information contained therein etc., the Assessing Officer of the searched person formed a satisfaction that certain document /digital data etc. relates to the assessee herein. i.e. Ms. Tejinder Kaur. The Assessing Officer of the

searched person accordingly recorded formal satisfaction dated 26.09.2022 contemplated under Section 153C of the Act that action under Section 153C of the Act is required to assess undisclosed income based on such documents found in the course of search in the hands of the assessee herein. The Assessing Officer of the assessee, in turn, recorded satisfaction note dated 03.10.2022 under Section 153C of the Act.

5.2 Based on the satisfaction note recorded by the AO of the searched person as well as that of AO of the assessee, the prerequisites for invocation of overriding provisions of Section 153C of the Act is stated to be fulfilled and therefore, the jurisdiction conferred to the AO of the assessee is available under Section 153C of the Act. The Assessing Officer in the instant case, however, has disregarded the special provisions of Section 153C of the Act despite recording satisfaction note drawn and framed regular assessment under Section 143(3) of the Act which is impermissible in law. To support such contention, the Id. Counsel referred to the decision of the Co-ordinate Bench of ITAT in the case of Akansha Gupta Vs. ACIT in ITA No. 3074/Del/2023, order dated 10.07.2024; M/s Splendor Landbase Ltd. Vs ACIT in ITA No. 3533/Del/2010 and others, order dated 31.12.2019; Jasjit Singh Vs. ACIT in ITA No. 1436/Del/2012, order dated 05.11.2014; PCIT Vs. Ojjus Medicare Pvt. Ltd. and Others (2024) (4) TMI 268, judgment dated 03.04.2024.

5.3 The Id. Counsel also submitted that the Assessment Year 2021-22 in question falls within six Assessment Years relevant to the previous year in which the documents seized in the hands of searched person were received by the Assessing Officer of the assessee. Hence, in view of the satisfaction note, the assessment for A.Y. 2021-22 is mandatorily required to be assessed under Section 153C of the Act and hence the assessment framed under Section 143(3) of the Act under challenge cannot be countenanced in law.

5.4 The Id. Counsel thus submitted that once the law relating to assessment under Section 153C of the Act, as expounded by the judicial precedents are applied in the facts of the case, the Assessment Order giving raise to the present appeal becomes unsustainable in law and hence requires to be quashed.

6. The Id. CIT-DR for the Revenue, on the other hand, relied upon the action of the revenue authorities and contended that as long as the Assessing Officer is empowered to frame the regular assessment by issuing valid notice under Section 143(2) of the Act, there is no estoppel in law for framing regular assessment under Section 143(3) of the Act which is much broader in its horizon and includes the assessment of income which is attributable to material found in the course of search of other party which is found relatable to the assessee.

7. We have carefully considered the rival submissions. The short question as per additional grounds is, whether the Assessment Order passed by the AO under Section 143(3) of the Act is illegal and not maintainable in view of the specific provisions of Section 153C of the Act. It is the case of the assessee that in the facts of the case, the Assessment Order ought to have been passed under Section 153C of the Act rather than under Section 143(3) of the Act. It is further case of the assessee that the prerequisites for invocation of Section 153C did exist in the present case and stood fulfilled for enabling the Assessing Officer to assess the income of the assessee under Section 153C of the Act.

8. As observed from case records, a search action under Section 132 of the Act was carried out at the premises of Praveen K. Jain Group (searched person) on 06.01.2022. Pursuant to search, document seized from the premises of Praveen K. Jain was received by the AO of the assessee on 03.10.2022. The Assessing Officer has also recorded 'Satisfaction Note' under Section 153C of the Act dated 03.10.2022 which is reproduced hereunder for ready reference:

*SATISFACTION NOTE*

*“For initiating proceedings under Section 153C read with Section 153A of the Income Tax Act, 1961 in the case of Mrs. Tejinder Kaur (PAN: AALPK6683J), AYs. 2015-16 to 2021-22.*

*Action under section 132 of the Income Tax Act was conducted in HANS Group of cases by Investigation wing, New Delhi on 06.01.202.ilt has the en brought to the notice of the undersigned by the AO of Sh. Parveen K. Jain (in the instant case both the AO is same), being one of the persons covered in group search and in whose case action under section 132 of the Income tax Act was taken, that during the search and seizure action, the seized Assets and documents/digital data and information contained therein relate to, Mrs. Tejinder Kaur the person other than the searched person. The Assessing officer of the searched person has recorded his satisfaction dated 26.09.2022 that seized Assets and documents/digital data and information contained therein relate to the assessee i.e. Mrs. Tejinder Kaur.*

<i>Premises from where assets and documents/digital data found and Seized: Premise at C-42, C-Block, Preet Vihar, Delhi-110092.</i>		
<i>Annexure</i>	<i>Page No./File Description</i>	<i>Remarks</i>
<i>A-5</i>	<i>Cloned data of Parveen Jain's mobile i-phone.</i>	<i>Cloned data of Parveen Jain's mobile marked as Annexure A-5 seized from the premise at C-42, C Block, Preet Vihar, Delhi-110092 having details of the actual sale consideration of the property at D- 115, Anand Vihar, Delhi -92 and payments in cash thereof. It is noticed that, Mrs. Tejinder Kaur has sold the above said property in which huge amount of cash received by Mrs. Tejinder Kaur.</i>

*2. After examining the seized documents/digital data and information contained therein, it is observed that, The assessee i.e. Mrs. Tejinder Kaur has sold the above mentioned property in which huge cash component involved thereof. After examining the documents/digital data and information contained therein, I am satisfied that documents/digital data and information contained therein, also relate to Mrs. Tejinder Kaur and have a bearing on the determination of total income of this person. In view of the same, I am further satisfied that it is a fit case for initiating proceedings u/s 1530 r.w.s 153A of the Income Tax Act, 1961 for the A.Ys. 2015-16 to 2021-22.*

3. Accordingly, notices u/s 153C r.w.s. 153A are being issued as per provisions of the Income Tax Act, 1961 for the A.Ys. 2015-16 to 2021-22.

Date: 03.10.2022

Sd/-  
Deputy Commissioner of Income Tax,  
Central Circle-31, New Delhi

9. In view of express satisfaction note recorded under Section 153C of the Act for different Assessment Years including Assessment Year 2021-22 in question, the proceedings initiated under Section 143(2) of the Act for regular assessment requires to be abated and give way to the special provisions of Section 153C of the Act.

10. Similar issue came up for adjudication by the Co-ordinate Bench of ITAT in Akansha Gupta (supra) wherein the assessment framed under Section 143(3) of the Act were quashed. The relevant operative part of the order of the Co-ordinate Bench of Tribunal is reproduced hereunder for ready reference:

*"9. Therefore, in view of the above decision, the date of recording of the satisfaction will be the deemed date for the possession of the seized documents, which is 30.06.2022 in the present case and the date of search and six years period would be reckoned from this date i.e. 30.06.2022. Therefore, there is merit in the submission of the assessee that the assessment year relevant for previous year in which search was conducted in the case of the assessee will be AY 2023-24 and the six assessment years immediately preceding the assessment year relevant for the previous year in which search was conducted for initiating proceeding u/s 153C of the Act will be AY 2018-19 to 2022-23. Therefore, respectfully following the decision of the cited case, it is held that in the present case, the assessment for AY 2021-22 should have been carried out by issuing notice u/s 153C of the Act and not u/s 143(2) of the Act as done by the AO in this case. No other contrary facts or decision was brought on record by the Ld. DR Therefore, it is held that the assessment order dated 29.12.2022 passed u/s 143(3) of the Act by the issuance of notice u/s 143(2) of the Act dated 30.06.2022 is bad in law and hence the notice u/s 143(2) of the Act, dated 30.06.2022 and the*

*consequent assessment order dated 29.12.2022 passed u/s 143(3) of the Act are hereby quashed. The additional grounds filed by the assessee are allowed."*

11. In the light of decision rendered by the Co-ordinate Bench of Tribunal and having regard to the scheme of the Act for assessment of person other than searched person codified under Section 153C of the Act, we find substantial force in the plea of the assessee. In consonance with the judicial view available, the Assessment Order dated 30.12.2022 passed under Section 143(3) of the Act for A.Y. 2021-22 in question giving rise to the present appeal stands quashed.

12. In consequence, the additions under challenge do not survive for adjudication.

13. The Assessment Order having been quashed, other grounds raised by the assessee do not call for any adjudication.

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

**Order is pronounced in the open court on 11.10.2024**

**Sd/-**

**(SUDHIR PAREEK)  
JUDICIAL MEMBER**

Date: 11.10.2024

*\*Subodh Kumar, Sr. PS\**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**

**(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR