

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C': NEW DELHI  
BEFORE  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No. 640/Del/2024, (A.Y.2021-22)**

Kavita Gupta B-110, Preet Vihar, Delhi <b>PAN No: AAOPG3558M</b>	Vs.	Deputy Commissioner of Income Tax Room No. 343, 3 <sup>rd</sup> Floor, ARA Centre, E-2, Jhandewalan Extension, Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Rakesh Kumar, CA
Respondent by	Sh. Om Prakash Sr. DR

Date of Hearing	24/10/2024
Date of Pronouncement	12/11/2024

**ORDER**

**PER YOGESH KUMAR U.S., JM :**

This appeal is filed by the Assessee against the order of Commissioner of Income Tax (Appeals)-30, Delhi ["Ld. CIT(A)" for short], dated 31.01.2024 for the Assessment Year 2021-22.

2. The Assessee raised the following additional grounds of Appeal: -

*"7. The learned DCIT has erred in law and on facts in considering the assessment year under appeal as the assessment year relevant to the previous year in which search was conducted and consequently passing the assessment order in the case of the appellant under section 143(3) of the Act instead of section 153C of the Act.*

*8. The learned DCIT has erred in law and on facts in issuing the notice under section 143(2), pursuing the proceedings under that section and passing the assessment order under section 143(3) of the Act instead of complying with the provisions of section 153C of the Act read with section 153A of the Act and, therefore, the said proceedings are void-ab-initio and the assessment order passed under section 143(3) pursuant to the said notice, is liable to be quashed.”*

3. Brief facts of the case are that, the Assessee filed return of income at total income of Rs. 23,61,230/-. The case of the Assessee was selected for scrutiny assessment by issuing notice u/s 143(2) of the Income Tax Act, 1961 ('Act' for short) and the assessment has been completed u/s 143(3) of the Act vide order dated 30/12/2022 by making an addition of Rs. 50,00,000/- on account of unexplained investment u/s 69 of the Act. Aggrieved by the assessment order dated 30/12/2022, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 31/01/2024, dismissed the Appeal filed by the Assessee. As against the order of the CIT(A), the Assessee preferred the present Appeal.

4. The Ld. Counsel for the Assessee submitting on the additional Grounds of Appeal, contended that the Ld. A.O. erred in considering Assessment Year 2021-22 as the assessment relevant to previous year in which search was conducted and consequently committed error in passing

the assessment order u/s 143(3) of the Act instead of Section 153C of the Act. The Ld. Counsel further submitted that in the case of the Vendor of the Assessee i.e. Tejinder Kaur in ITA No. 936/Del/2024 vide order dated 11/10/2024 the coordinate bench of the Tribunal quashed the assessment proceedings by allowing the similar additional grounds of Appeal of the Assessee thereof, thus, sought for allowing the present Appeal.

5. Per contra, the Ld. Departmental Representative by relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record and also perused the order of the Coordinate Bench of the Tribunal in ITA No. 936/Del/2024 in the case of Tejinder Kaur (supra)while adjudicating the very same additional grounds of Appeal, deleted the addition made by the A.O. in following manners:-

*“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>Remakrs</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-</i>

	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.
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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.”*

7. By following the ratio laid down in the order of the Tribunal in the case of Tejinder Kaur (supra), we are of the considered opinion that the assessment order in question dated 30/12/2022, which has been passed under section 143(3) of the Act, ought to have passed under Section 153C of the Act. Thus the impugned Assessment Order dated 30.12.2022 passed under Section 143(3) of the Act and the order of the Ld. CIT(A) for Assessment Year 2021-22 are hereby quashed.

8. In the result, the Appeal of the Assessee is allowed.

Order pronounced in open Court on 12<sup>th</sup> November, 2024

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Dated: 12/11/2024

R.N, Sr. PS

Copy forwarded to:

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

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR

ITAT, NEW DELHI

