

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'F': NEW DELHI)**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND**

**SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 1736/Del/2023**

**(Assessment Year: 2008-09)**

Deputy Commissioner of Income Tax, Central Circle-32, New Delhi.	Vs.	M/s RNB Leasing and Financial Services, No.1, Shivaji Enclave Main Road. Opp. Mother Diary Near Raja Garden, West Delhi-110027.
<b>PAN No:AAJFR5528H</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**C.O.:- 166/Del/2023**

**Arising from ITA No:- 1736/Del/2023**

**(Assessment Year: 2008-09)**

Kishan Kumar Bajaj As Erstwhile Partner of RNB Leasing and Financial Services (now Dissolved) RNB House 1, Shivaji Enclave, Main Road, Opp. Mother Diary, Near Raja Garden, New Delhi-110027.	Vs.	Deputy Commissioner of Income Tax, Central Circle-32, New Delhi.
<b>PAN No:AAJFR5528H</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Yogeshwar Sharma, Sr. DR

**Assessee by** : Shri Aman Garg, CA

**Date of Hearing** : 30.08.2024

**Date of Pronouncement** : 29.11.2024

**ORDER**

**PER SUDHIR PAREEK, JM**

ITA No. 1736/Del/2023 by the Revenue and Cross Objection No. 166/Del/2023 of the Assessee preferred against the order of the commissioner of Income Tax (Appeals)-30, New Delhi-110055 [hereinafter referred to as 'Ld. CIT(A)'], pertaining to Assessment Year 2008-09, dated 20.03.2023.

1.1 The appeal and the cross objection were heard together and are being disposed of by this common order for the sake of convenience and brevity.

1.2 The grounds raised in the Revenue's appeal read as under:

*“1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 35,00,000/- made by the AO merely on the basis that the assessee is not involved in the business of wool and did not decide the case on merits*

*2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in concluding that in the remand report AO has acknowledged that the transactions are duly recorded, ignoring the fact that the AO has not commented on the genuineness of transactions and has commented only on business nature of the assessee firm as reported in Form 3CD, in the remand report.*

3. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in ignoring the fact that the Assessing Officer vide para 8.4 of the Assessment Order has described the modus operandi of Bajaj Group of companies where in it was specifically mentioned that modus operandi of the assessee is purchase of share at exorbitantly high premium and this fact was not considered by the Ld. CIT(A)*

4. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs 4,13,66,321/ made by the AD mere on the basis that assessee is not involved in the business of wool and did not decide the case on merit.*

5. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in ignoring the fact that the AO had made addition after establishing that the Bajaj Group of companies were involved in getting accommodation entries through shell companies controlled by the group and the assessee is one such entity of the group receiving accommodation entry from shell entities, being M/s Bhoomika Enterprises, M/s Shree Chamunda Enterprises, Innovative Tradevision Pvt. Ltd. Aditi Import Export Pvt. Ltd, M/s K.G. Enterprises & M/s Manglam Enterprises*

6. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not appreciating that the business of the company is immaterial in the transaction of accommodation entry and verification of genuineness of transaction is more important which was not done by the Ld. CIT(A).*

7. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in ignoring the fact that the Assessing Officer vide para 8.4 of the Assessment Order has described the modus operandi of Bajaj Group of companies where in it was specifically mentioned that modus operandi of the assessee is purchase of share at exorbitantly high premium and this fact was not considered by the Ld. CIT(A).*

8. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not appreciating the fact that during the course of search action in the cases of the Bajaj group, connected surveys were conducted at the given office addresses of the shell companies cited at point 5 supra, and it was found that no business activity of trading in wool/share was carried out from the premises and the concerns were operated and managed by Shri Nirmal Kumar Sarda, CA of the group.*

9. *The order of the CIT(A) is erroneous and is not tenable on facts and in law.*

10. *The appellant craves to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal”.*

**2. Grounds of the assessee in Cross Objection are as under:**

*“1. On the facts appeals circumstances of the case,, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT (A)] is bad both in the eye of law and on facts.*

*2. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law ignoring the contention of the assessee that the order passed by the learned AO under section 153A rws 143(3)*

*is illegal and bad in law as the same has been passed without having valid jurisdiction.*

*3. On the facts and circumstances of the of the case, the learned CIT(A) has erred, both on facts and in law. in ignoring the contention of the assessee that the order passed by the learned AO under section 1534 r.w.s 143(3) is bad and liable to be quashed as the same has been framed consequent to a search which itself was unlawful and invalid in the eyes of law.*

*4. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in ignoring the contention of the assessee the AO has erred in passing the order despite the fact that authorization for the search was issued on non-existing entity as well as by the person not authorized to issue such authorization.*

*5. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law. in ignoring the contention of the assessee that the proceedings initiated under section 153A against the appellant and the assessment framed under section 153A r.w.s. 143(3) are in violation of the statutory conditions of the Act and the procedure prescribed under the law and as such the same is bad in the eye of law and liable to be quashed.*

*6. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in ignoring the contention of the assessee that the learned AO has erred in making the addition in order passed u/s 153A r.w.s 143(3) of the Act, without any incriminating material having been found during the course of search.*

*7. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in ignoring the contention of the assessee that the assessment order passed by the AO is invalid and bad in law as the same was passed in violation of the circular No. 19/2019 issued by CBDT which mandates that no order shall be passed without there being valid Document Identification Number (DIN)*

*8. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in ignoring the contention of the assessee that the notice issued under section 153A of the Act and consequent reassessment order passed under section 153A of the Act are bad in law as the same has been issued and passed on the non-existent entity.”*

2. The facts of the case may be summarized as that the assessee was a partnership firm which was incorporated in the year 2007. The main purpose of the firm was to serve the purpose of special purpose vehicle (SPV) for management of needs and transaction of the individual and entities of RNB group. It was involved into investment and trading in equity shares, mutual funds and other financial instruments etc.

3. The Ld. Assessing Officer (“AO”) completed the assessment under Section 153A read with Section 143(3) of the Act, making additions on various grounds.

3.1 A search and seizure operation was carried out at the various premises of Bajaj Group and its associates including assessee and the directors and others on 20.04.2017. Original return in this case was e-filed on 29.09.2008 declaring total income of Rs. 37,080/- which was processed u/s 143(1) of the Income Tax Act, 1961('the Act'), for short.

4. On 08<sup>th</sup> April, 2024, the Ld. AR filed following additional grounds (11 and 12) of cross objection, by stating that “we are filing additional grounds of cross objection, which go to root of the case in hand”, as these grounds are purely legal which may alone sufficient to dispose off the matter / appeal.

*“11. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of assessee that the assessment year under consideration i.e. AY 2008-09 is beyond the period of ten years from the end of assessment year relevant to the year in which search was conducted and proceeding initiated under section 153A of the Act and the consequent assessment order passed is without jurisdiction and barred by limitation*

*12. Without prejudice to above, on the facts and circumstances of the case, the notice issued under section 153A of the Act and assessment order is without jurisdiction and barred by limitation as the proceeding for AY 2008- 09 have become barred by limitation and subsequent*

*amendment brought by Finance Act, 2017 enlarging the limitation period beyond the six preceding years of search to initiate assessment proceedings has no application in present case."*

5. Heard rival submissions and carefully scanned the material available on record.

6. The Ld. AR submitted that the Ld. AO had not jurisdiction to issue notice under Section 153A of the Act, for the A.Y. 2008-09, since the search of the assessee was conducted on 20.04.2017, so for this purpose A.Y. 2008-09 barred by limitation as beyond limitation and it is also submitted that as per explanation I of section 153A, the assessment beyond the period of 10 years from the end of the relevant A.Y. in which search is carried out cannot be re-opened. Also it is submitted by the Ld. AR that search was conducted on a non-existing entity and in the eyes of law consequent assessment proceedings on a non-existent person is null and void. He further submitted that assessee filed letter dated 18.03.2016 to ITO, Ward- 45(1) and intimated him about the dissolution of the assessee firm and a search on assessee was conducted on 20.04.2017 and during the search no incriminating

document/material was found, which is clearly established from the Panchnama, placed in P.B. page No. 45-46 and 47-48. As per submissions of the Ld. AR, the Ld. AO ignored the material facts regarding intimation of dissolution of the assessee firm and proceeded against non-existent person without finding any incriminating material, which is quite unwarranted by law on the part of the Ld. AO and unsustainable.

7. Foremost question to decide the matter in hand that whether the AY in consideration i.e. 2008-09 is beyond the period of ten years from the end of the assessment year relevant to the year in which search was conducted and proceeding initiating u/s 153A of the Act and consequent assessment order is passed without jurisdiction and barred by limitation? And also that the notice issued u/s 153A of the Act and assessment order is barred by law, as mentioned above, and subsequent amendment brought by Finance Act, 2017 enlarging the limitation period beyond the six proceedings years of search to initiate assessment proceedings has no application in present case? The Ld. AR vehemently submitted that above legal grounds / issue 10 and 11 goes to the root of the

case and solely sufficient to decide the matter in hand because if all questioned proceedings is barred by law, then it will vitiate the whole action and unsustainable.

8. For this purpose, relevant part of the Section 153A of the Act is furnished as below.

***“Assessment in case of search or requisition.***

***153A. (1)*** *Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 but on or before the 31st day of March, 2021, the Assessing Officer shall—*

*(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;*

*(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years :*

*Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years :*

*Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in*

*this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate :*

*Provided also that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years:*

*Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—*

*(a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;*

*(b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and*

*(c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.*

***Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.***

*Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.*

*(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with*

*effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:*

*Provided that such revival shall cease to have effect, if such order of annulment is set aside.*

*Explanation.—For the removal of doubts, it is hereby declared that,—*

*(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;*

*(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.”*

9. In the course of hearing, the Ld. AR submitted that the search was conducted on 20.04.2017 and AY. 2018-19 in the assessment year relevant to the previous year in which search was conducted or requisition is made and accordingly 10 years as per explanation 1 of the section 153A of the Act as follows:

<b><u>S.NO</u></b>	<b><u>ASSESSMENT YEARS</u></b>
1.	2018-2019
2.	2017-2018
3.	2016-2017
4.	2015-2016
5.	2014-2015
6.	2013-2014
7.	2012-2013

8.	2011-2012
9.	2010-2011
10.	2009-2010

10. The Ld. AR vehemently argued that the assessment year 2008-09 is beyond the period of limitation and subsequently the order passed under section 153A R/W section 143(3) of the Act is barred by law and for only and only reason, liable to be quashed and set aside. In support of his argument, he submitted judicial pronouncement 2024(4) TMI 268, The Pr. Commissioner of Income Tax...vs Ojjus Medicare Pvt. Ltd., & others of which relevant para no. 119 is reproduced below:

*“119. We thus record our conclusions as follows:*

*A. Prior to the insertion of Sections 153A, 153B and 153C, an assessment in respect of search cases was regulated by Chapter XIVB of the Act, comprising of Sections 158B to 158BI and which embodied the concept of a block assessment. A block assessment in search cases undertaken in terms of the provisions placed in Chapter XIVB was ordained to be undertaken simultaneously and parallelly to a regular assessment. Contrary to the scheme underlying Chapter XIVB, Sections 153A, 153B 25 ITAT and 153C contemplate a merger of regular assessments with those that may be triggered by a search. On a search being undertaken in terms of Section 153A, the jurisdictional AO is enabled to initiate an assessment or reassessment, as the case may be,*

*in respect of the six AYs' immediately preceding the AY relevant to the year of search as also in respect of the "relevant assessment year", an expression which stands defined by Explanation 1 to Section 153A. Of equal significance is the introduction of the concept of abatement of all pending assessments as a consequence of which curtains come down on regular assessments.*

*B. Both Sections 153A and 153C embody non-obstante clauses and are in express terms ordained to override Sections 139, 147 to 149, 151 and 153 of the Act. By virtue of the 2017 Amending Act, significant amendments came to be introduced in Section 153A. These included, inter alia, the search assessment block being enlarged to ten AYs' consequent to the addition of the stipulation of "relevant assessment year" and which was defined to mean those years which would fall beyond the six year block period but not later than ten AYs'. The block period for search assessment thus came to be enlarged to stretch up to ten AYs'. The 2017 Amending Act also put in place certain prerequisite conditions which would have to inevitably be shown to be satisfied before the search assessment could stretch to the "relevant assessment year". The preconditions include the prescription of income having escaped assessment and represented in the form of an asset amounting to or "likely to amount to" INR 50 lakhs or more in the "relevant assessment year" or in aggregate in the "relevant assessment years".*

*C. Section 153C, on the other hand, pertains to the non-searched entity and in respect of whom any material, books of accounts or documents may have been seized and were found to belong to or pertain to a person other than the searched person. As in the case of Section 153A, Section 153C was also to apply to all searches that may have been undertaken between the period 01 June 2003 to 31 March 2021. In*

*terms of that provision, the AO stands similarly empowered to undertake and initiate an assessment in respect of a non-searched entity for the six AYs' as well as for "the relevant assessment year". The AYs', which would consequently be thrown open for assessment or reassessment under Section 153C follows lines pari materia with Section 153A.*

*D. The First Proviso to Section 153C introduces a legal fiction on the basis of which the commencement date for computation of the six year or the ten year block is deemed to be the date of receipt of books of accounts by the jurisdictional AO. The identification of the starting block for the purposes of computation of the six and the ten year period is governed by the First Proviso to Section 153C, which significantly shifts the reference point spoken of in Section 153A(1), while defining the point from which the period of the "relevant assessment year" is to be calculated, to the date of receipt of the books of accounts, documents or assets seized by the jurisdictional AO of the non- searched person. The shift of the relevant date in the case of a non-searched person being regulated by the First Proviso of Section 153C(1) is an issue which is no longer res integra and stands authoritatively settled by virtue of the decisions of this Court in SSP Aviation and RRJ Securities as well as the decision of the Supreme Court in Jasjit Singh. The aforesaid legal position also stood reiterated by the Supreme Court in Vikram Sujitkumar Bhatia. The submission of the respondents, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted.*

**E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the**

**previous year of search. The block of six AYs' would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under Section 153A.**

**F. While the identification and computation of the six AYs' hinges upon the phrase "immediately preceding the assessment year relevant to the previous year" of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly, Explanation 1 of Section 153A requires us to reckon it "from the end of the assessment year". This distinction would have to necessarily be acknowledged in light of the statute having consciously adopted the phraseology "immediately preceding"when it be in relation to the six year period and employing the expression "from the end of the assessment year" while speaking of the ten year block.**

G. Insofar as the thresholds put in place by virtue of the Fourth Proviso to Section 153A are concerned and the argument of the writ petitioners of the condition of INR 50 lakhs being an unwavering precondition, we find ourselves unable to sustain that submission bearing in mind the indubitable fact that proceedings for search assessment commence upon the issuance of a notice and the AO at that stage having really not had the occasion to undertake a detailed or in depth examination of the

*evidence collected or come to a definitive opinion with respect to the total income which may have escaped assessment. Since the computation and assessment of income that is likely to have escaped assessment would at this stage be provisional, it would be incorrect to strike down initiation of action on a mere ex facie examination of the Satisfaction Note. We also in this regard bear in mind the Fourth Proviso using the expression "amounts to or is likely to amount". The usage of the phrase "likely to" is indicative of the Legislature being conscious of the provisional character of the opinion that the AO may have formed at that stage.*

*H. However, and at the same time, even if the identified asset at that stage be quantified as less than INR 50 lakhs, the AO must for reasons to be duly recorded, be of the opinion that the ultimate computation of escaped income is likely to exceed INR 50 lakhs. The aforesaid satisfaction would have to be based on an assessment of the material gathered and the potentiality of the same being indicative of the escaped assessment exceeding INR 50 lakhs. The formation of opinion in this respect would have to be based not on mere ipse dixit but reflective of a fair assessment of the quantum of income likely to have escaped assessment as distinct from mere speculation and conjecture.*

*I. We further hold that since the precondition of INR 50 lakhs or more constitutes a sine qua non for initiating action for the extended ten year block, the aforesaid satisfaction and the reasons in support thereof would have to borne out from the Satisfaction Note itself. We are also of the opinion that the precondition of INR 50 lakhs is not liable to be viewed as being the qualifying criteria for each "relevant assessment year" that may be thrown open and that the said condition would stand*

*satisfied if the escaped income cumulatively or in the aggregate meets the minimum benchmark of INR 50 lakhs.*

*J. The contention of finality and closure addressed with respect to AYs' 2010-11 and 2011-12 on the basis of the statutory timeframes prescribed for assessment or reassessment and as those provisions stood prior to 01 April 2017 is misconceived, since it proceeds on the assumption that once the period of assessment or reassessment were to come to an end, it would inevitably lead to the creation of a vested right in favour of the assessee. The aforesaid argument proceeds on the incorrect premise of the reassessment provisions controlling or cabining the power conferred by Sections 153A and 153C. Acceptance of the aforesaid contention would amount to ignoring the plain and evident intent of the Legislature for Sections 153A and 153C operating above and beyond the reassessment powers.*

*K. The submission of closure and finality also fails to bear in consideration the indubitable fact that a search is an eventuality which is inherently unpredictable, a circumstance which would defy prophecy and it consequently being wholly irrational to read the time frames pertaining to reassessment as regulating or controlling the period within which an assessment predicated on that event may be initiated. It would be wholly illogical to conceive of a connection between the statutory time frames which are otherwise embodied in the Act and search assessments. In fact the acceptance of this submission would amount to virtually erasing the non obstante clause contained in Sections 153A and 153C.*

*L. The legislative intent of those provisions having retroactive application is clearly evidenced from the statute declaring that they would apply to*

*all searches conducted between 31 May 2003 to 31 March 2021, and the Fourth Proviso in unambiguous terms extending the applicability of those provisions to all searches conducted post 01 April 2017 and Sections 153A and 153C superseding the provisions for reassessment, otherwise appearing in the Act.*

*M. The argument of closure also fails to take note of the accepted distinction between the liability to tax under the Act and the right to assess and enforce a liability created pursuant thereto. While a statute may denude an authority of the power to enforce a liability and in that limited sense conferring finality upon an assessment, the said position would prevail only till such time as that halo of impregnability is not statutorily removed. As was eloquently observed by the Supreme Court, the deprivation of a power to enforce would not lead to the creation of a vested right. As was pertinently observed, the liability to the State exists and operates de hors a consideration of time and in the absence of the statute itself imposing a time limit. The only limitations which are introduced while enacting Sections 153A and 153C was of the period within which the search had been conducted.”*

11. On the basis of above factual position and judicial pronouncement, the learned AR also submitted that there was no any pending assessment in the case of assessee at the time of framing the assessment order u/s 153A of the Act, so it is a case of completed assessment/unabated assessment. The Ld. AR submitted in this regard that the Hon’ble Jurisdiction High Court in

the case of Commissioner of Income Tax(Central)-III vs. Kabul Chawala 2015(9) TMI-80 dated 28.08.2015 has laid down that completed assessments can be interfered with the AO while making the assessment order under Section 153A on the basis of some incriminating material unearthed during the course of search and further the above ratio laid down as above confirmed by the Hon'ble Supreme Court in the case of PCIT v/s Abhisar buildwell Pvt. Ltd. 2023(4) TMI-1056 dated 24.04.2023.

12. As per Panchnama placed on Paper Book and also order of the Ld. AO, no any incriminating document/material was found. On the basis of above fact situation, there is material substance in the submissions advanced on behalf of the assessee that in this case the A.Y. in question i.e. 2008-09 is beyond the period of ten years from the end of the assessment year relevant to the year in which search was conducted and proceeding initiated u/s 153A of the Act and the consequent assessment order passed is without jurisdiction and clearly barred by law and the Ld. AO was not authorized by law to initiate proceedings which was barred. Established legal position cannot be ignored but to be followed in strict manner and if

proceedings which are knowingly, that it is barred by law, initiated by competent authority, hardly be allowed to be confirmed. So on the basis of foregoing discussion, submissions and abovesited judicial precedents, we hold that whole proceedings in question was barred by law, and consequently the ground nos. 10 and 11 of the cross objection are deserved to be allowed in the favour of assessee.

13. So far the grounds 1 & 2 of Revenue's appeal are concerned, these are related with the alleged deletion, of the addition of Rs. 35,00,000/-. In this regards, the Ld. DR submitted that the Ld. AO made above deletion merely on the basis that the assessee is not involved in the business of wool and conclusion of the Ld. CIT(A) is not proper that in the remand report AO has acknowledged that the transactions are duly recorded and ignored this material fact that the Ld. AO has not commented on the genuineness of transaction and has commented on business nature. From the perusal, there is no any substance in submissions advanced as above because the Ld. CIT(A) clearly held that on verification of the documentary evidences submitted by the appellant , the AO has acknowledged the purchase and sale of shares and mutual funds being duly

recorded in the audited financial statements and said trading activity had also been reported by the tax auditor in form 3CD and the Ld. CIT(A), depending on above fact situation, found that it has been duly substantiated by the appellant that the investment in mutual funds referred by the AO in the assessment order has been duly recorded in its books of accounts. So far question regarding ground no. 4 is concerned, the Ld. CIT(A) passed detailed findings that the true facts of the case of the appellant have been duly verified by the AO himself in the remand report and not further doubt has been raised by him with report of the genuineness of the business activity / operation of appellant in the year under consideration.

14. Regarding the ground nos.- 3,5,6,7 & 8, the Ld. DR submitted that the Ld. AO has described in relevant para of the assessment order, the modus operandi of Bajaj Group of Companies is to purchase of share at exorbitantly high premium and the Ld. CIT(A) ignored this material fact that the business of the company is immaterial in the transaction of accommodation entry and verification of genuineness of transactions is more important.

15. In our humble opinion, discussion and factual position, there is no any substance in the submission that the Ld. CIT(A) did not decide the appeal on its merits but it clearly exhibited that the First Appellate Authority passed elaborated order after discussing all the points which were necessary to adjudicate. Above all, as we discussed above, the Ld. AO was lacking jurisdiction in proceed further and action of the Ld. AO was barred by law as enumerated hereinbefore, so we are of considered opinion that there is no any grounds before us to interfere with the Ld. CIT(A) order regarding grounds 1 to 8 appeal of Revenue and accordingly appeal preferred by the Revenue is liable to be dismissed.

16. As per discussion in ground no. 10 & 11 of the Cross Objection, No separate adjudication regarding ground 1 to 8 is required as issued contained therein already been discussed and decided in the ground nos. 10 and 11.

17. In the light of above discussion, we are in conclusion that the appeal preferred by Revenue is liable to be dismissed and Cross Objection of the assessee is deserves to be allowed.

18. Consequently, appeal of Revenue is hereby dismissed and the Cross Objection of the assessee is allowed as indicated above.

Order pronounced in the Open Court on 29.11.2024

**Sd/-**  
**(S. RIFAUH RAHMAN)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SUDHIR PAREEK)**  
**JUDICIAL MEMBER**

Dated: 29/11/2024  
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
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	