

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "A" BENCH : HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA.Nos.1322 & 1323/Hyd/2024
Assessment Years 2017-2018 & 2018-2019

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| M/s. MSN Institute of Medical Sciences Pvt. Ltd., Hyderabad PIN – 500 038. Telangana. PAN AAJCM1030E | vs. | The PCIT-(Central), Hyderabad. |
| (Appellant) | | (Respondent) |

ITA.Nos.1324 & 1325/Hyd/2024
Assessment Years 2017-2018 & 2018-2019

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| M/s. Prathima Resorts & Restaurants Pvt. Ltd., Hyderabad - 500 038. Telangana. PAN AABCP4275E | vs. | The PCIT-(Central), Hyderabad. |
| (Appellant) | | (Respondent) |

ITA.Nos.1326 & 1327/Hyd/2024
Assessment Years 2017-2018 & 2018-2019

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| M/s. Prathima Eggset Private Limited., Hyderabad - 500 034. Telangana. PAN AABCP4276H | vs. | The PCIT-(Central), Hyderabad. |
| (Appellant) | | (Respondent) |

ITA.Nos.1329 & 1330/Hyd/2024
Assessment Years 2017-2018 & 2018-2019

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| M/s. Spark Vidyut Pvt. Ltd., Hyderabad - 500 038. Telangana. PAN AALCS4752R | vs. | The PCIT-(Central), Hyderabad. |
| (Appellant) | | (Respondent) |

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| For Assesseees : | CA MV Prasad and Shri KS Rajendra Kumar |
| For Revenue : | Shri B. Bala Krishna, CIT-DR |

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| Date of Hearing : | 25.02.2025 |
| Date of Pronouncement : | 09.04.2025 |

ORDER

PER BENCH :

The above batch of 08 appeals filed by the respective assessee's against the respective separate orders all dated 27.11.2024 of the Principal Commissioner of Income Tax (Central), Hyderabad, passed u/sec.263 of the Income Tax Act, 1961 [in short "the Act"], relating to the assessment years 2017-2018 and 2018-2019. Since common issues are involved in all these 08 appeals, these appeals were heard together and are being disposed of by this single consolidated order for the sake of convenience and brevity. We, therefore, take-up appeal ITA.No.1322/

Hyd./2024 for the assessment year 2017-2018 as the “lead” appeal. Both the parties are agreed that the decision taken in appeal for the assessment year 2017-2018, be applicable for the remaining appeals for the assessment years 2017-2018 and 2018-2019.

ITA.No.1322/Hyd./2024 – A.Y. 2017-2018 :

2. The assessee has raised the following grounds in the instant appeal :

1. *“The order of the Learned Principal Commissioner of Income Tax u/s 263 of the Income Tax Act, 1961 is erroneous on the facts of the case and contrary to the provisions of law.*
2. *The Ld. Principal CIT erred in law in invoking the provisions of section 263 of the Act to revise the assessment order passed u/s 153C of the Act, though the powers of revision u/s 263 do not extend to such assessment order passed with the prior approval of the JCIT u/s 153D of the Act.*
3. *The Ld. Principal CIT erred in law in setting aside the approval given by the JCIT u/s 153D of the Act though such approval does not constitute an order passed*

under the Act which could be a subject matter of revision u/s 263 of the Act

- 4. The order of revision u/s 263 is without jurisdiction and unsustainable in law, as the base assessment order passed u/s 153C itself is void ab initio and bad in law since the assumption of jurisdiction u/s 153C by the Assessing Officer is vitiated in the absence of recording of any valid satisfaction for the instant assessment year in the satisfaction note with reference to the specific seized material which has a bearing on the determination of total income for the said year.*
- 5. On the facts and circumstances of the case, the Ld. Principal CIT erred in law in subjecting the assessment order u/s 153C of the Act to revision u/s 263 with regard to the issue of unexplained investment in the purchase of lands at Rangareddyguda, though such assessment order cannot be regarded as erroneous when the Assessing Officer has taken one of the plausible views by assessing the same income in the assessment order passed u/s 153C for A.Y 2020-21.*
- 6. On the facts and facts and circumstances of the case, the Ld. Principal CIT erred in law in relying on the seized material which is non-incriminating in nature for the purpose of rendering the finding that the seized*

material has a bearing on the determination of total income for the instant assessment year

7. Any other legal and factual ground that may be urged at the time of hearing of the appeal

3. Facts of the case, in brief, are that a search u/sec.132 of the Act was conducted in MSN Group of cases on 24.02.2021. Consequent to the said search, notices u/s 153C of the Act were issued by the Assessing Officer in the cases of the four appellants for assessment years from assessment year 2015-2016 to A.Y 2020-2021, being the six assessment years immediately preceding the assessment year relevant to the previous year in which the search was conducted. The search assessments u/s 153C for A.Y 2015-2016 to A.Y 2020-2021 were subsequently completed by the Assessing Officer vide orders dated 27.03.2023 for assessment years 2015-2016 to 2019-2020 and orders dated 29.03.2023 for assessment year 2020-21 in the cases of MSN Institute for Medical Sciences Pvt Ltd, Prathima Eggsel Pvt Ltd and Spark Vidyut Pvt Ltd and vide orders dated 30.03.2023 for assessment years 2015-2016 to 2019-

2020 and order dated 29.03.2023 for assessment year 2020-2021 in the case of Prathima Resorts & Restaurants Pvt Ltd. In the assessment orders passed u/sec.153C dated 29.03.2023 passed for the assessment year 2020-2021, the Assessing Officer made addition of Rs.5,01,83,750/- in the case of MSN Institute of Medical Sciences Pvt Ltd, Rs.4,27,87,500/- in the case of Prathima Eggseel Pvt Ltd, Rs.4,90,08,750/- in the case of Prathima Resorts & Restaurants Pvt Ltd and Rs.2,40,11,250/- in the case of Spark Vidyut Pvt Ltd. u/sec.69 of the Act towards unexplained investment represented by payment of on-money in cash for purchase of lands at Rangareddyguda. The assessments u/s 153C in respect of A.Ys 2017-2018 and 2018-2019 were completed accepting the returned loss.

4. The addition made u/sec.69 of the Act in the assessment orders for A.Y 2020-21 in the cases of the four appellants was deleted by the CIT(A) vide appellate orders dated 28.06.2024 on the reasoning that the said addition is not based on any incriminating material unearthed during the search for the concerned assessment year. The CIT(A)

made an observation in the appellate order that the AO may take appropriate action based on the evidences seized and statements recorded u/sec.132(4) in appropriate hands in appropriate years.

5. Subsequently, the PCIT issued show-cause notices u/sec.263 of the Act for A.Ys 2017-18 and 2018-19 on 23.09.2024 in the cases of the four appellants proposing to revise the assessment orders passed u/sec.153C for the said assessment years on the ground that the said orders are erroneous and prejudicial to the interest of revenue since they were passed without bringing to tax the on-money payments made in cash during the relevant previous years for purchase of lands at Rangareddyguda. In response to the said notice, the appellants filed written submissions before the PCIT objecting to the proposed revision u/sec.263 of the Act. However, the learned PCIT being not satisfied with the explanations furnished by the above four appellant's, rejected the contentions of the appellants and passed orders u/sec.263 for A.Ys 2017-18 and 2018-19 on 27.11.2024. In the said revision orders, the PCIT observed

that the cheque payments for purchase of lands at Rangareddyguda were made during the previous years relevant to A.Ys 2017-18 and 2018-19 as noticed from the seized material vide page No.99 of A/SS-5/UBK/02 and the entire on-money payments were also made during the previous years relevant to A.Ys 2017-18 and 2018-19 since Sri.J.Anirudh Reddy, Sri.M.Uday Kumar Reddy and Sri M.S.N.Reddy have deposed in their sworn statements recorded during the search that the on-money payments were made during the period from June 2016 to July 2017. The PCIT, therefore, noted that the dates on which the on-money payments were made during the said period were not provided in the sworn statements, he apportioned the on-money payments between A.Y 2017-18 and A.Y 2018-19 in proportion to the number of months falling in each assessment year out of the period from June 2016 to July 2017. The apportionment made by the PCIT to A.Y 2017-18 and 2018-19 worked out to Rs.3,58,45,536/- and Rs.1,43,38,214/- in the case of MSN Institute of Medical Sciences Pvt Ltd, Rs.3,05,62,500/- and Rs.1,22,25,000/- in

the case of Prathima Eggse Pvt Ltd, Rs.3,50,06,250/- and Rs.1,40,02,500/- in the case of Prathima Resorts & Restaurants Pvt Ltd and Rs.1,71,50,893/-and Rs.68,60,357/- respectively. The PCIT accordingly observed that the said on-money payments were not assessed to tax by the Assessing Officer in the assessment orders passed u/sec.153C of the Act for the A.Ys 2017-18 and 2018-19 respectively by failing to take cognizance of the relevant seized material and the sworn statements. Accordingly, the PCIT held that the said assessment orders passed u/sec.153C and the approvals accorded by the JCIT u/sec.153D for the said assessment orders in the cases of the four appellants are not only erroneous but also prejudicial to the interests of revenue. And, therefore, the learned PCIT set-aside the assessment orders passed by the Assessing Officer u/sec.153C of the Act for the A.Ys 2017-18 and 2018-19 in the cases of the four appellants to the file of the Assessing Officer and the corresponding approvals u/sec.153D to the file of the JCIT for the purpose of assessing the unexplained investment towards purchase of

lands at Rangareddyguda u/sec.69 r.w.s 115BBE of the Income Tax Act, 1961 in the said assessment years.

6. Aggrieved by the order of the learned PCIT, the assessee is now in appeal before the Tribunal.

7. During the course of hearing, CA MV Prasad, Learned Counsel for the Assessee, submitted his arguments on two counts i.e., (i) when an assessment order passed u/sec.153C with the prior approval of JCIT u/sec.153D, revisionary powers of PCIT u/sec.263 of the Act are unsustainable in law and (ii) In absence of a valid satisfaction note, assumption of jurisdiction u/sec.153C by the Assessing Officer is bad in law and *void ab initio*. The Learned Counsel for the Assessee submitted that, the powers of revision u/sec.263 of the Act of the PCIT do not extend to an assessment order passed u/sec.153C with the prior approval of the JCIT u/sec.153D and consequently, the orders passed by the PCIT in the cases of the appellants for A.Ys 2017-18 and 2018-19 by invoking the revision powers u/sec.263 are bad in law and legally unsustainable. He also drew the attention of the Bench the provisions of

sec.263(1) and Explanaton-1 to sec.263(1) and submitted that the statute does not provide for revision of assessment orders passed u/sec.153A and 153C u/sec.263 of the Act. He, therefore, submitted that the orders of the PCIT passed u/sec.263 of the Act for the assessment years 2017-2018 to 2018-2019 are without the authority of law and the same are legally unsustainable. In support of this contention, the Learned Counsel for the Assessee relied on the decisions of Hon'ble Madhya Pradesh High Court in the case of Pr. CIT vs. Prakhar Developers (P.) Ltd., [2024] 162 taxmann.com 48 (MP); Hon'ble Allahabad High Court decision in the case of CIT vs. Ashok Kumar in IT Appeal No.192 of 2000; Hon'ble Jharkhand High Court in the case of Pr. CIT vs. Padma Kumar Jain in Tax Appeal No.7 of 2021 and order of ITAT, Chennai Bench in the case of Saravana Global Holdings Ltd., vs. DCIT in ITA.No.1383 and 1384/CHNY./2017 and placed the orders on record. He accordingly submitted that the orders of the PCIT passed u/sec.263 of the Act be set aside in respect of the assessment years under appeals.

8. The Learned Counsel for the Assessee further submitted that, as regards assessment orders passed by the Assessing Officer u/sec.153C for assessment years 2017-18 and 2018-2019, they are *void ab initio*, in absence of valid assumption of jurisdiction u/sec.153C by the Assessing Officer and that the assessment orders which are *ab initio void* cannot be subjected to revision u/sec.263, Learned Counsel for the Assessee CA MV Prasad submitted that the Assessing Officer failed to identify and co-relate the seized material which is relevant for determination of total income for the impugned assessment years 2017-2018 and 2018-2019 in the case of all the four assessee's under appeals while recording the "satisfaction note" and in absence of such valid satisfaction note, assumption of jurisdiction by the Assessing Officer u/sec.153C of the Act is bad in law and unsustainable. He submitted that the satisfaction notes in the cases of three appellants i.e Prathima Eggsel Pvt Ltd, Prathima Resorts & Restaurants Pvt Ltd and Spark Vidyut Pvt Ltd are identically worded. In the satisfaction notes of the said three cases, the AO made discussion regarding the

issues of stated sale consideration in the registered sale deeds being less than the stamp duty value within the meaning of section 56(2)(x) and on-money payments made in cash in respect of lands purchased at Rangareddyguda during the previous year relevant to A.Y 2020-21 by the said assesseees. The AO made the said discussion with reference to the seized material and sworn statements u/sec.132(4) relevant to the said issues and he arrived at the conclusion that income u/sec.56(2)(x) and on-money payments that were made during the A.Y 2020-21 for purchase of lands at Rangareddyguda need to be brought to tax in the hands of the said assesseees for the A.Y 2020-21. Based on the said discussion, the AO recorded his satisfaction that the seized material has a bearing on the determination of total income of the said assesseees for the A.Y 2020-21. However, in the last paragraph of the satisfaction notes, the Assessing Officer stated that he is satisfied that the seized material relates to the assesseees and has a bearing on the determination of the total income of the assesseees for six assessment years immediately preceding the assessment

year relevant to the previous year in which search is conducted i.e for A.Ys 2015-16 to 2021-22. But, as could be seen from the satisfaction notes that the Assessing Officer did not make any discussion therein which enabled him to arrive at the said satisfaction for A.Ys 2015-16 to 2021-22 based on the identification and co-relation of the seized material that is relevant to each of the said assessment years, except assessment year 2020-2021.

9. The Learned Counsel for the Assessee Shri MV Prasad, in the case of the remaining appellant i.e MSN Institute of Medical Sciences Pvt Ltd, submitted that, the AO made discussion regarding the issue of on-money payments made in cash in respect of lands purchased at Kothur during the previous year relevant to A.Y 2015-16 by the said assessee. The AO made the said discussion with reference to the seized material and sworn statement u/sec.132(4) relevant to the said issue. Based on the said discussion, the Assessing Officer stated in the last paragraph of the satisfaction note that he is satisfied that the seized material relates to the assessee and has a bearing on the

determination of the total income of the assessee for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted i.e for A.Ys 2015-16 to 2021-22. However, as could be seen from the satisfaction note, the AO did not make any discussion therein which enabled him to arrive at the said satisfaction for A.Ys 2015-16 to 2021-22 based on the identification and co-relation of the seized material that is relevant to each of the said assessment years, except A.Y 2015-16. Further, it may also be seen that there was no discussion at all by the Assessing Officer in the satisfaction note regarding the issue of on-money payments made for purchase of lands at Rangareddyguda. He accordingly submitted that from the perusal of the contents of the satisfaction notes recorded by the Assessing Officer in the case of all the four appellants, it is evident that, the Assessing Officer has not identified and co-related the seized material that has a bearing on the determination of the total income of the appellants for all the assessment years for which such satisfaction is purported to have been

arrived at, barring one assessment year. The satisfaction recorded by the Assessing Officer in a sweeping manner for all the six assessment years from A.Y 2015-16 to A.Y 2021-22 without co-relating the seized material to each of the assessment years involved in the said period does not constitute a legally valid satisfaction for the assessment years for which such co-relation has not been brought out in the satisfaction note and consequently, the assumption of jurisdiction u/sec.153C for the impugned assessment years is bad in law and unsustainable. He submitted that without such co-relation, it cannot be regarded that the seized material has a bearing on the determination of total income for the said assessment years, which is a jurisdictional fact and *sine qua non* for issue of notice u/s 153C for the said assessment years. In the absence of bringing out co-relation of the seized material with the total income of A.Ys 2017-18 and 2018-19, the satisfaction recorded by the AO for the said assessment years cannot be considered to be a bonafide and legally valid satisfaction. He, therefore, submitted that the assessment proceedings initiated for

A.Ys 2017-18 and 2018-19 u/sec.153C of the Act are bad in law being without jurisdiction. The consequential assessment orders passed u/sec.153C for the said assessment years are *ab initio void* in the absence of valid jurisdiction to pass the said orders. In support of his contentions, the Learned Counsel for the Assessee, relied on the decision of Hon'ble Supreme Court in the case of CIT v. Sinhgad Technical Education Society [2017] 397 ITR 344 (SC), wherein it was held that notices issued u/s 153C are not legally sustainable for the assessment years for which the seized documents mentioned in the satisfaction note do not establish any co-relation with the relevant assessment years. It was held that the notices issued u/s 153C are legally valid only for such assessment years for which the seized material adverted to in the satisfaction note pertains to.

10. The Learned Counsel for the Assessee further submitted that, the issue of whether the Assessing Officer is bound to issue notice u/sec.153C for all the six assessment years immediately preceding the assessment year relevant

to the previous year in which search was conducted regardless of the existence of seized incriminating material for the concerned assessment years is no longer *res integra*? In support of this contention, the Learned Counsel for the Assessee relied on the Judgment of Hon'ble Delhi High Court in the case of Saksham Commodities Ltd v. ITO [2024] 461 ITR 1 (Delhi) wherein the Hon'ble Delhi High Court held that there is a well settled distinction which the law recognizes between the existence of power and the exercise thereof and merely because section 153C confers jurisdiction upon the Assessing Officer to commence an exercise of assessment or reassessment for a block of years which are mentioned in that provision, same alone would not be sufficient to justify steps in that direction being taken, unless incriminating material so found is likely to have an impact on total income of a particular assessment year forming part of six assessment years immediately preceding assessment year pertaining to search year or for "relevant assessment years". The Learned Counsel for the Assessee placed on record the Judgment Hon'ble Supreme

Court in the case of CIT v. Sinhgad Technical Education Society and Hon'ble Delhi High Court in the case of Saksham Commodities Ltd v. ITO (supra). He accordingly submitted that in absence of satisfaction note recorded by the Assessing Officer regarding identification and co-relation of the seized material to the concerned assessment years in order to establish the fact that the seized material has a bearing on the determination of the total income for the said assessment years, assumption of jurisdiction u/sec.153C of the Act is not legally valid. He accordingly stressed on the point that since the satisfaction notes recorded by the AO in the cases of the four appellants have not brought out the co-relation of the seized material with the determination of total income of A.Ys 2017-18 and 2018-19, it follows from the application of the aforementioned settled law to the said fact that the assumption of jurisdiction u/sec.153C by the Assessing Officer for the said assessment years is bad in law and that, the consequential assessment orders passed u/sec.153C for the said assessment years are *ab initio void* in the absence of valid jurisdiction to pass the said orders.

In this context, Learned Counsel for the Assessee, invited the attention of the Bench regarding validity of the satisfaction note is required to be evaluated on the basis of the contents of such satisfaction note alone and it is not permissible to virtually expand the scope of the contents of the satisfaction note at a later stage by improving or supplementing the same. This is analogous to the settled legal position governing the evaluation of the validity of the reasons recorded for re-opening of assessment u/sec.147 of the Act. In support of these submissions, the Learned Counsel for the Assessee, relied on the decision of Hon'ble Bombay High Court in the cases of Hindustan Lever vs., RB Wadkar [2004] 268 ITR 332 (Bombay); Aroni Chemicals Ltd vs., DCIT [2014] 362 ITR 403 (Bombay) and Prashant S. Joshi Vs. ITO (2010) 324 ITR 154 (Bombay) [copy of orders are placed in the paper book-1 at Page Nos.268 to 279] that the reasons recorded by the Assessing Officer for re-opening cannot be improved or substituted or supplemented at a later stage when subjected to judicial challenge and the issue of whether the AO had reasons to believe that the

income has escaped assessment has to be adjudicated only with reference to the reasons actually recorded by the Assessing Officer before the issue of notice u/sec.148 without taking assistance from any external material. The Learned Counsel for the Assessee accordingly submitted that the assumption of jurisdiction and issue of notice u/sec.153C in the case of the appellants for A.Ys 2017-18 and 2018-19 may kindly be considered as bad in law and the consequent assessment orders passed u/sec.153C for the said assessment years as *void ab initio*. The Learned Counsel for the Assessee, therefore, submitted that the assessment orders which are *ab initio void* cannot be subjected to revision u/sec.263 of the Act, the appellant submits that the revision powers can be exercised only in respect of such assessment orders which are legally valid. If an assessment order has been rendered *non-est* in the eyes of law or bad in law, such an order has no legal existence and consequently, no further action under the statute can be taken with regard to such a non-existing order including revision u/sec.263. The legal maxim "*Sublato Fundamento*

Cadit Opus”, which means that once the foundation is removed, the entire structure falls, is squarely applicable to the factual situation prevalent in the case of the three appellants. The said legal maxim has been a cornerstone in legal proceedings, signifying that actions based on an unlawful foundation are inherently invalid. In support of this contention, the Learned Counsel for the Assessee relied on the judgment of the Hon'ble Goa Bench of Bombay High Court in the case of Gigabyte Technology (India) Pvt Ltd v. CIT in Tax Appeal Nos.77 and 78 of 2015. A copy of the said judgment of is furnished at Page Nos.293 to 305 of PB-1. Further, the Learned Counsel for the Assessee placed reliance on the decision of the Hon'ble ITAT, Mumbai in the case of Westlife Development Ltd v. Pr.CIT [2017] 88 taxmann.com 439 (Mumbai) wherein it has been held that since the original assessment order was null and void in the eyes of law as the same was passed upon a non-existing entity, the CIT could not have assumed jurisdiction under the law to make revision of a *non-est* order. The Hon'ble Tribunal therefore held that the impugned order passed

u/sec.263 by the CIT is also a nullity in the eyes of law and the same is accordingly quashed. Copy of the said order is placed on record at Page Nos.305 to 311 of PB-1. In support of this contention, the Learned Counsel for the Assessee also relied on the decision of ITAT, Delhi Bench in the case of Krishan Kumar Saraf vs. CIT in ITA.No.4562/Del./2011 and ITAT, Jaipur Bench in the case of Dinesh Kumar Chaurasia vs. ACIT in ITA.No.420/JPR/2024 wherein the Delhi Tribunal held that while exercising powers u/sec.263, the Commissioner cannot revise an assessment order which is non-est in the eyes of law. Copies of orders of the Tribunal are placed on record at pages 312 to 323 of PB-1. The Learned Counsel for the Assessee accordingly submitted that the revision orders passed u/sec.263 of the Act by the PCIT for A.Ys 2017-18 and 2018-19, which sought to revise the assessment orders passed u/sec.153C for the said assessment years which are *void ab initio*, may kindly be considered as bad in law and legally unsustainable.

11. The Learned Counsel for the Assessee CA MV Prasad further submitted that the PCIT was erred in law and on facts in placing reliance on seized material which is non-incriminating in nature for revising an order passed u/sec.153C of the Act. He submitted that in the absence of any incriminating information in the said seized document, the same does not constitute seized material that has a bearing on the determination of total income of the appellant for the A.Ys 2017-18 and 2018-19. Hence, the reliance placed by the PCIT on the said seized document for the purpose of revision of assessment orders u/sec.153C for A.Ys 2017-18 is misplaced and the same is untenable. The Learned Counsel for the Assessee further submitted that unlike assessments u/sec.153A in the case of searched persons where the issue of notices u/sec.153A for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted is automatic, the issue of notices u/sec.153C in the cases of a persons other than the searched person is contingent on the availability of seized material pertaining to

or containing information relating to such other person and on such seized material being incriminating in nature in as much as it has a bearing on the determination of total income for the relevant assessment years. These conditions for issue of notices u/sec.153C are the jurisdictional conditions and notices u/sec.153C cannot be issued unless the Assessing Officer is satisfied regarding the fulfilment of these conditions and satisfaction note is recorded by him regarding the same. The said jurisdictional requirements for issue of notices u/s 153C are required to be strictly construed. The satisfaction of the Assessing Officer regarding the fulfilment of the jurisdictional conditions is sine qua non for the issue of notices u/sec.153C and the notices issued and assessments made u/sec.153C without such satisfaction of the AO are bad in law. The Learned Counsel for the Assessee further drew the attention of the Bench with regard to the provisions of the Act prescribes that the satisfaction for assuming jurisdiction u/sec.153C should be that of the AO and no other authority including the higher authorities such as JCIT, PCIT etc. has been

vested with the said power. The provisions of section 263 of the Act do not provide for revising the "satisfaction note" recorded by the Assessing Officer, which is completely different and distinct in its nature from the order passed by the Assessing Officer. Hence, the appellant submits that the satisfaction note recorded by the Assessing Officer for enabling him to assume jurisdiction to issue notices u/sec.153C is final and the same cannot be re-written by any other authority including the PCIT in the absence of enabling provision in the Act. In the light of the said legal position, the appellant submits that the powers of the PCIT for revision of an assessment order u/sec.153C for any assessment year are limited to the issues covered by the "satisfaction note" recorded by the Assessing Officer for the concerned assessment year based on the seized material having a bearing on the determination of total income for the concerned assessment year. If the assessment order u/sec.153C for an assessment year omits to bring to tax the income that is emerging from the seized material relied upon in the "satisfaction note" for the concerned

assessment year, the PCIT would be justified in law in invoking the powers of revision u/sec.263 for the said assessment year, since the jurisdiction u/sec.153C has been lawfully assumed by the AO for making the said assessment. On the other hand, if the jurisdiction u/sec.153C has not been lawfully assumed by the Assessing Officer for a particular assessment year in the absence of drawing necessary satisfaction by him for the said year in the satisfaction note with reference to the seized material which has a bearing on the determination of total income for the said year, the PCIT has no legal powers to re-write or modify the satisfaction note in order to render the assumption of jurisdiction by the AO as lawful which was otherwise unlawful. The Learned Counsel for the Assessee submitted that in the case of the appellants for A.Ys 2017-18 and 2018-19, the satisfaction note recorded by the AO does not contain any discussion regarding the seized material that has a bearing on the determination of the total income of the appellant for the said assessment years. Since the fulfilment of the jurisdictional condition to the said

effect is not brought out in the satisfaction note of the Assessing Officer, the assumption of jurisdiction u/sec.153C by the Assessing Officer for the said assessment years is not lawful and the consequential notices issued and assessment orders passed for the said assessment years do not have validity in law. In the said facts and circumstances of the case, the PCIT is not empowered to revise such assessment orders by relying on seized documents in respect of which the Assessing Officer did not record any satisfaction in the satisfaction note, since the same would amount to re-writing the satisfaction note by the PCIT which is not legally permissible as submitted earlier.

12. The Learned CIT-DR Shri B Bala Krishna, on the other hand, relied on the orders of the PCIT and submitted that the statute did not explicitly made it clear that if an assessment order passed by the Assessing Officer with the approval of JCIT u/sec.153D of the Act, cannot be revised by the PCIT in exercise of his revisionary powers u/sec.263 of the Act. He, therefore, submitted that the order of PCIT passed u/sec.263 of the Act is in accordance with law and

should be upheld. Further, since the income chargeable to tax has escaped assessment and as per the seized material the income pertains to the previous assessment years, the learned PCIT has rightly exercised his revisional powers u/sec.263 of the Act and the orders of the PCIT should be upheld as the assessment orders passed by the Assessing Officer are not only erroneous but also prejudicial to the interest of the revenue. He accordingly submitted that the order of the PCIT is in accordance with law and, therefore, he submitted that the order of the PCIT should be upheld in the interest of substantial justice.

13. Learned CIT-DR further submitted that, as per sec.263 of the Act, the PCIT can revise any order passed under this Act which means order passed by the Assessing Officer includes the order passed by the ACIT/Addl. CIT and, therefore, the arguments of the Counsel for the Assessee that assessment order passed by the Assessing Officer with the approval of Addl. CIT u/sec.153D cannot be revised is devoid of merit and cannot be accepted. Learned CIT-DR further submitted that during the course of search

incriminating material in the form of agreement to sale for purchase of land has been found and as per the said incriminating material, the assessee has agreed to purchase the land at a particular price, whereas, the final sale deed has been executed for a different amount. Further, another statement was found during the course of search which contains details of total payment made for purchase of land and payment in cash and cheque and when these incriminating documents were confronted to the assessee and employees of the appellant company, they have agreed that there is on-money payment for purchase of land through Shri Anirudh Reddy. The Department has recorded the statement from Shri Anirudh Reddy where he has clearly admitted to have received consideration in cash for sale of land. The said statement has been confronted to Shri MSN Reddy, Managing Director of the appellant-company where he has admitted on-money payment for purchase of land and also declared additional income towards on-money for the assessment year 2020-2021. The Assessing Officer based on statement of Shri MSN Reddy has assessed on-

money payment for purchase of land for the assessment years 2020-2021 and 2021-2022, even though, the seized material clearly shows payment of on-money for the assessment years 2017-2018 and 2018-2019. The learned PCIT after considering the relevant seized material has come to the conclusion that, the material found during the course of search suggests on-money payment for the assessment years 2017-2018 and 2018-2019, whereas, the Assessing Officer assessed the on-money only on the basis of statement of Shri MSN Reddy for some other assessment years and because of this, the learned CIT(A) has deleted the additions made by the Assessing Officer. Since the Assessing Officer has passed assessment order without considering relevant seized material in light of the statement of Shri Anirudh Reddy, the on-money for payment of purchase of land has been assessed for some other assessment years which renders the assessment order passed by the Assessing Officer erroneous and prejudicial to the interest of revenue. Therefore, he submitted that, there is no merit in the arguments advanced by the Learned

Counsel for the Assessee that, in absence of valid satisfaction note for the assessment year in question, the assessment order becomes *void abinitio* and liable to be quashed and consequently, the PCIT cannot revise assessment order which is illegal by exercising his revisional powers u/sec.263 of the Act is contrary to law and cannot be accepted. Therefore, he submitted that grounds taken by the assessee on this regard should be rejected.

14. We have heard both the parties, perused the material on record and the orders of the authorities below. The PCIT has invoked his jurisdiction u/sec.263 of the Act and set-aside the assessment order dated 27.11.2024 passed by the Assessing Officer u/sec.153C of the Act on the ground that the assessment order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interest of the revenue, inasmuch as, the Assessing Officer has failed to take into account the relevant seized material found during the course of search in the case of M/s. MSN Group of companies on 24.02.2021 which clearly shows on-money payment for purchase of land by the

appellant and other group companies. The PCIT further observed that, although, the Assessing Officer has assessed the on-money payment for purchase of land for assessment years 2020-2021 and 2021-2022, but, such assessment is based on the admission of Shri MSN Reddy in the statement recorded u/sec.132(4) of the Act during the course of post-search investigation, but, not based on relevant incriminating material found during the course of search, more particularly, page-99 of Annexure-A/SS-5/UBK/02 which contains the details of transfer of funds through RTGS and cheques on various dates for purchase of land. The said document further triggered the enquiry which reveals that the appellant company has paid cash to Shri J Anirudh Reddy through Shri Uday Kumar Reddy which is evident from the statement recorded from both parties u/sec.132(4) of the Act where they have clearly admitted to have received cash payments from the appellant group companies between June, 2016 to July, 2017. Although, the evidences clearly shows payment of on-money for the assessment years 2017-2018 and 2018-2019, but, the

Assessing Officer has erroneously considered the on-money payment and assessed for assessment years 2020-2021 and 2021-2022 only on the basis of admission of Shri MSN Reddy which was further deleted by the learned CIT(A) on the ground that there is no incriminating material to support the additions made for payment of on-money for above two assessment years. Therefore, the PCIT opined that the Assessing Officer has passed the assessment order u/sec.143(3) r.w.s.153C of the Act for the assessment years 2017-2018 and 2018-2019 in these cases without considered the relevant incriminating material in light of the provisions of the Act, which render the assessment order erroneous in so far as it is prejudicial to the interest of revenue. Therefore, the learned PCIT set-aside the assessment order and direct the Assessing Officer to re-do the assessments and assess the total on-money paid for purchase of land at Rangareddyguda (v) under the provisions of sec.69 r.w.s.115BBE of the Income Tax Act, 1961.

15. The provisions of sec.263 of the Income Tax Act, 1961 deals with revision powers of the Principal CIT and as per the said provisions, if the PCIT satisfies that the assessment order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interest of revenue, then the assessment order passed by the Assessing Officer can be revised. But, in order to invoke the provisions of sec.263 of the Act, the PCIT should satisfy that the twin conditions provided under the Act are satisfied i.e., (1) order of the Assessing Officer is erroneous and further (2) It is prejudicial to the interest of revenue. Unless the PCIT makes-out a case that twin conditions mentioned therein are satisfied, the PCIT cannot assume his revisionary jurisdiction and revise the assessment order passed by the Assessing Officer in terms of sec.263 of the Act.

16. In light of the above factual and legal background, if we examine the order passed by the PCIT u/sec.263 of the Act, we have to understand whether the PCIT has arrived at a correct conclusion on the basis of material available on record which warrants revisional

jurisdiction and set-aside the assessment order passed by the Assessing Officer. Admittedly, there is no dispute with regard to the fact that the appellant and its group companies have purchased land on various dates and also paid on-money for purchase of land and this fact has been confirmed by none other than Shri MSN Reddy, Group Managing Director. This fact is further strengthened by the statement recorded from Shri J. Anirudh Reddy and Shri Uday Kumar Reddy who have involved in the procurement of land for appellant group companies from various sellers and both of them admitted to have received cash for payment of consideration to sellers. However, fact remains that, whether the material found during the course of search and relied upon by the PCIT shows on-money payment for purchase of land for assessment years 2017-2018 or for assessment years 2020-2021 and 2021-2022 as considered by the Assessing Officer is relevant factor needs to be considered. The PCIT has relied upon page-99 of Annexure-A/SS-5/BK/02 seized during the course of search operation in the case of Shri MSN Reddy and its

associated entities which contains details payments through RTGS on various dates. The said documents do not contain any details of cash payment to any party. The Assessing Officer recorded satisfaction as required u/sec.153C of the Act before issuing notice u/sec.153C and observed that the material found during the course of search has a bearing on the total income of the appellant and other group companies for assessment year 2015-2016 to 2021-2022. However, in the satisfaction note recorded by the Assessing Officer u/sec.153C of the Act, there is no direct reference to any incriminating material which pertains to the assessment year 2017-2018 and 2018-2019. However, as per the satisfaction note, the Assessing Officer has recorded clear factual finding that based on the sale deeds and sale agreement, the on-money payment for purchase of land is assessable for the assessment years 2020-2021 and 2021-2022 and this fact has been strengthened by the subsequent affidavit filed by Shri MSN Reddy where he has admitted on-money payment for purchase of land in assessment years 2020-2021 and 2021-2022. Therefore, it

is necessary for us to understand the reasons given by the PCIT to set aside the assessment order passed by the Assessing Officer u/sec.153C of the Act for the assessment years 2017-2018 and 2018-2019 in light of satisfaction note recorded by the Assessing Officer for initiation of proceedings u/sec.153C of the Act and also the assessment order passed by the Assessing Officer for the assessment years 2020-2021 and 2021-2022.

17. It is well settled principles of law that any assessment orders passed by the Assessing Officer u/sec.153C for any assessment years are *void ab initio* in absence of valid assumption of jurisdiction u/sec.153C by the Assessing Officer and that the assessment orders which are *ab initio void* cannot be subjected to revision u/sec.263 of the Act, because if any order is illegal, then same cannot be legalised by the higher authority. In the present case, the Assessing Officer failed to identify and co-relate the seized material which is relevant for determination of total income for the impugned assessment years 2017-2018 and 2018-2019 in the case of all the four assessee's under appeals

while recording the “satisfaction note” and in absence of such valid satisfaction note, assumption of jurisdiction by the Assessing Officer u/sec.153C of the Act is bad in law and unsustainable. We have gone through the satisfaction notes in the cases of three appellants i.e Prathima Eggsel Pvt Ltd, Prathima Resorts & Restaurants Pvt Ltd and Spark Vidyut Pvt Ltd which are identically worded. In the satisfaction notes of the said three cases, the AO made discussion regarding the issues of stated sale consideration in the registered sale deeds being less than the stamp duty value within the meaning of section 56(2)(x) and on-money payments made in cash in respect of lands purchased at Rangareddyguda during the previous year relevant to A.Y 2020-21 by the said assessee’s. The AO made the said discussion with reference to the seized material and sworn statements u/sec.132(4) relevant to the said issues and he arrived at the conclusion that income u/sec.56(2)(x) and on-money payments that were made during the A.Y 2020-21 for purchase of lands at Rangareddyguda need to be brought to tax in the hands of the said assessees for the A.Y 2020-21.

Based on the said discussion, the AO recorded his satisfaction that the seized material has a bearing on the determination of total income of the said assesseees for the A.Y 2020-21. However, in the last paragraph of the satisfaction notes, the Assessing Officer stated that he is satisfied that the seized material relates to the assesseees and has a bearing on the determination of the total income of the assesseees for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted i.e for A.Ys 2015-16 to 2021-22. But, as could be seen from the satisfaction notes that the Assessing Officer did not make any discussion therein which enabled him to arrive at the said satisfaction for A.Ys 2015-16 to 2021-22 based on the identification and correlation of the seized material that is relevant to each of the said assessment years, except assessment year 2020-2021.

18. In the case of the remaining appellant i.e MSN Institute of Medical Sciences Pvt Ltd, the AO made discussion regarding the issue of on-money payments made in cash in respect of lands purchased at Kothur during the

previous year relevant to A.Y 2015-16 by the said assessee. The AO made the said discussion with reference to the seized material and sworn statement u/sec.132(4) relevant to the said issue. Based on the said discussion, the Assessing Officer stated in the last paragraph of the satisfaction note that he is satisfied that the seized material relates to the assessee and has a bearing on the determination of the total income of the assessee for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted i.e for A.Ys 2015-16 to 2021-22. However, as could be seen from the satisfaction note, the AO did not make any discussion therein which enabled him to arrive at the said satisfaction for A.Ys 2015-16 to 2021-22 based on the identification and co-relation of the seized material that is relevant to each of the said assessment years, except A.Y 2015-16. Further, it may also be seen that there was no discussion at all by the Assessing Officer in the satisfaction note regarding the issue of on-money payments made for purchase of lands at Rangareddyguda. Therefore, from the

perusal of the contents of the satisfaction notes recorded by the Assessing Officer in the case of all the four appellants, it is evident that, the Assessing Officer has not identified and co-related the seized material that has a bearing on the determination of the total income of the appellants for all the assessment years for which such satisfaction is purported to have been arrived at, barring one assessment year. The satisfaction recorded by the Assessing Officer in a sweeping manner for all the six assessment years from A.Y 2015-16 to A.Y 2021-22 without co-relating the seized material to each of the assessment years involved in the said period does not constitute a legally valid satisfaction for the assessment years for which such co-relation has not been brought out in the satisfaction note and consequently, the assumption of jurisdiction u/sec.153C for the impugned assessment years is bad in law and unsustainable. Further, without such co-relation, it cannot be regarded that the seized material has a bearing on the determination of total income for the said assessment years, which is a jurisdictional fact and *sine qua non* for issue of notice u/s

153C for the said assessment years. In the absence of bringing out co-relation of the seized material with the total income of A.Ys 2017-18 and 2018-19, the satisfaction recorded by the AO for the said assessment years cannot be considered to be a bonafide and legally valid satisfaction. Therefore, in our considered view the assessment proceedings initiated for A.Ys 2017-18 and 2018-19 u/sec.153C of the Act are bad in law being without jurisdiction. The consequential assessment orders passed u/sec.153C for the said assessment years are *ab initio void* in the absence of valid jurisdiction to pass the said orders. This principle is supported by the decision of Hon'ble Supreme Court in the case of CIT v. Sinhgad Technical Education Society [2017] 397 ITR 344 (SC), wherein it was held that notices issued u/s 153C are not legally sustainable for the assessment years for which the seized documents mentioned in the satisfaction note do not establish any co-relation with the relevant assessment years. It was held that the notices issued u/s 153C are legally valid only for such assessment years for which the

seized material adverted to in the satisfaction note pertains to.

19. Further, the issue of whether the Assessing Officer is bound to issue notice u/sec.153C for all the six assessment years immediately preceding the assessment year relevant to the previous year in which search was conducted regardless of the existence of seized incriminating material for the concerned assessment years is no longer *res integra*? In support of this contention, the Learned Counsel for the Assessee relied on the Judgment of Hon'ble Delhi High Court in the case of Saksham Commodities Ltd v. ITO [2024] 461 ITR 1 (Delhi) wherein the Hon'ble Delhi High Court held that there is a well settled distinction which the law recognizes between the existence of power and the exercise thereof and merely because section 153C confers jurisdiction upon the Assessing Officer to commence an exercise of assessment or reassessment for a block of years which are mentioned in that provision, same alone would not be sufficient to justify steps in that direction being taken, unless incriminating material so

found is likely to have an impact on total income of a particular assessment year forming part of six assessment years immediately preceding assessment year pertaining to search year or for "relevant assessment years". Therefore, in absence of satisfaction note recorded by the Assessing Officer regarding identification and co-relation of the seized material to the concerned assessment years in order to establish the fact that the seized material has a bearing on the determination of the total income for the said assessment years, assumption of jurisdiction u/sec.153C of the Act is not legally valid. In the present cases, the satisfaction notes recorded by the AO in the cases of the four appellants have not brought out the co-relation of the seized material with the determination of total income of A.Ys 2017-18 and 2018-19, and therefore, it follows from the application of the aforementioned settled law to the said fact that the assumption of jurisdiction u/sec.153C by the Assessing Officer for the said assessment years is bad in law and that, the consequential assessment orders passed u/sec.153C for the said assessment years are *ab initio void*

in the absence of valid jurisdiction to pass the said orders. In our considered view, validity of the satisfaction note is required to be evaluated on the basis of the contents of such satisfaction note alone and it is not permissible to virtually expand the scope of the contents of the satisfaction note at a later stage by improving or supplementing the same. This is analogous to the settled legal position governing the evaluation of the validity of the reasons recorded for re-opening of assessment u/sec.147 of the Act. In support of these submissions, the Learned Counsel for the Assessee, relied on the decision of Hon'ble Bombay High Court in the cases of Hindustan Lever vs., RB Wadkar [2004] 268 ITR 332 (Bombay); Aroni Chemicals Ltd vs., DCIT [2014] 362 ITR 403 (Bombay) and Prashant S. Joshi Vs. ITO (2010) 324 ITR 154 (Bombay), where it has been held that the reasons recorded by the Assessing Officer for re-opening cannot be improved or substituted or supplemented at a later stage when subjected to judicial challenge and the issue of whether the AO had reasons to believe that the income has escaped assessment has to be adjudicated only with

reference to the reasons actually recorded by the Assessing Officer before the issue of notice u/sec.148 without taking assistance from any external material. Therefore, in our considered view, the assumption of jurisdiction and issue of notice u/sec.153C in the case of the appellants for A.Ys 2017-18 and 2018-19 is bad in law and the consequent assessment orders passed u/sec.153C for the said assessment years as *void ab initio*. Further, once the assessment orders which are *ab initio void*, then said *invalid orders* cannot be subjected to revision u/sec.263 of the Act, because the revision powers can be exercised only in respect of such assessment orders which are legally valid. If an assessment order has been rendered *non-est* in the eyes of law or bad in law, such an order has no legal existence and consequently, no further action under the statute can be taken with regard to such a non-existing order including revision u/sec.263. The legal maxim "*Sublato Fundamento Cadit Opus*", which means that once the foundation is removed, the entire structure falls, is squarely applicable to the factual situation prevalent in the case of the three

appellants. The said legal maxim has been a cornerstone in legal proceedings, signifying that actions based on an unlawful foundation are inherently invalid. Although, the assessee has not challenged the validity of assessment orders when they are passed, but in our considered view, there was no occasion for the assessee to challenge said orders, because the orders are not averse to the assessee at that point of time. Further, in our considered view, the assessee can challenge the validity of orders at the very first available opportunity and in our considered view, since the assessee has got an opportunity to question the validity of orders, it has rightly challenged the validity of orders in the present proceedings. Since the original assessment orders itself is invalid in absence of valid satisfaction and non-est in eyes of law, the PCIT cannot revise the non-est orders u/s 263 of the Act. In this regard, it is relevant to refer the judgment of the Hon'ble Goa Bench of Bombay High Court in the case of Gigabyte Technology (India) Pvt Ltd v. CIT in Tax Appeal Nos.77 and 78 of 2015 and the decision of the Hon'ble ITAT, Mumbai in the case of Westlife Development

Ltd v. Pr.CIT [2017] 88 taxmann.com 439 (Mumbai) wherein it has been held that since the original assessment order was null and void in the eyes of law as the same was passed upon a non-existing entity, the CIT could not have assumed jurisdiction under the law to make revision of a *non-est* order. The Hon'ble Tribunal therefore held that the impugned order passed u/sec.263 by the CIT is also a nullity in the eyes of law and the same is accordingly quashed. In support of this contention, the Learned Counsel for the Assessee also relied on the decision of ITAT, Delhi Bench in the case of Krishan Kumar Saraf vs. CIT in ITA.No.4562/Del./2011 and ITAT, Jaipur Bench in the case of Dinesh Kumar Chaurasia vs. ACIT in ITA.No.420/JPR/2024 wherein the Delhi Tribunal held that while exercising powers u/sec.263, the Commissioner cannot revise an assessment order which is non-est in the eyes of law. Therefore, in our considered view, the revision orders passed u/sec.263 of the Act by the PCIT for A.Ys 2017-18 and 2018-19, which sought to revise the assessment orders

passed u/sec.153C for the said assessment years which are *void ab initio*, is bad in law and legally unsustainable.

20. Coming back to another aspect of the issue. The PCIT placed reliance on seized material, page 99 of Annexure-A/SS-5/UBK/02 seized during the course of search operation, for revising an order passed u/sec.153C of the Act. We have considered relevant seized material which is available in paper book filed by the assessee and we find that said document contains details of payment made for purchase of lands by RTGS only, but it does not contain any details of payment in case and therefore, said material cannot be considered as incriminating in nature. In the absence of any incriminating information in the said seized document, the same does not constitute seized material that has a bearing on the determination of total income of the appellant for the A.Ys 2017-18 and 2018-19. Therefore, the reliance placed by the PCIT on the said seized document for the purpose of revision of assessment orders u/sec.153C for A.Ys 2017-18 is misplaced and the same is untenable. Further, unlike assessments u/sec.153A in the

case of searched persons where the issue of notices u/sec.153A for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted is automatic, the issue of notices u/sec.153C in the cases of a persons other than the searched person is contingent on the availability of seized material pertaining to or containing information relating to such other person and on such seized material being incriminating in nature in as much as it has a bearing on the determination of total income for the relevant assessment years. These conditions for issue of notices u/sec.153C are the jurisdictional conditions and notices u/sec.153C cannot be issued unless the Assessing Officer is satisfied regarding the fulfilment of these conditions and satisfaction note is recorded by him regarding the same. The said jurisdictional requirements for issue of notices u/s 153C are required to be strictly construed. The satisfaction of the Assessing Officer regarding the fulfilment of the jurisdictional conditions is sine qua non for the issue of notices u/sec.153C and the notices issued and assessments

made u/sec.153C without such satisfaction of the AO are bad in law. Further, the provisions of the Act prescribes that the satisfaction for assuming jurisdiction u/sec.153C should be that of the AO and no other authority including the higher authorities such as JCIT, PCIT etc. has been vested with the said power. The provisions of section 263 of the Act do not provide for revising the "satisfaction note" recorded by the Assessing Officer, which is completely different and distinct in its nature from the order passed by the Assessing Officer. Therefore, the satisfaction note recorded by the Assessing Officer for enabling him to assume jurisdiction to issue notices u/sec.153C is final and the same cannot be re-written by any other authority including the PCIT in the absence of enabling provision in the Act. Therefore, in our considered view, the powers of the PCIT for revision of an assessment order u/sec.153C for any assessment year are limited to the issues covered by the "satisfaction note" recorded by the Assessing Officer for the concerned assessment year based on the seized material having a bearing on the determination of total income for

the concerned assessment year. If the assessment order u/sec.153C for an assessment year omits to bring to tax the income that is emerging from the seized material relied upon in the "satisfaction note" for the concerned assessment year, the PCIT would be justified in law in invoking the powers of revision u/sec.263 for the said assessment year, since the jurisdiction u/sec.153C has been lawfully assumed by the AO for making the said assessment. On the other hand, if the jurisdiction u/sec.153C has not been lawfully assumed by the Assessing Officer for a particular assessment year in the absence of drawing necessary satisfaction by him for the said year in the satisfaction note with reference to the seized material which has a bearing on the determination of total income for the said year, the PCIT has no legal powers to re-write or modify the satisfaction note in order to render the assumption of jurisdiction by the AO as lawful which was otherwise unlawful. In the case of the appellants for A.Ys 2017-18 and 2018-19, the satisfaction note recorded by the AO does not contain any discussion regarding the seized

material that has a bearing on the determination of the total income of the appellant for the said assessment years. Since the fulfilment of the jurisdictional condition to the said effect is not brought out in the satisfaction note of the Assessing Officer, the assumption of jurisdiction u/sec.153C by the Assessing Officer for the said assessment years is not lawful and the consequential notices issued and assessment orders passed for the said assessment years do not have validity in law. In the said facts and circumstances of the case, the PCIT is not empowered to revise such assessment orders by relying on seized documents in respect of which the Assessing Officer did not record any satisfaction in the satisfaction note, since the same would amount to re-writing the satisfaction note by the PCIT which is not legally permissible.

21. In the present case, going by the facts available on record, we find that there is no direct co-relation between the incriminating material found during the course of search qua the assessment years 2017-2018 and 2018-2019 to allege that the documents found during the course

of search belongs to or relates to the assessee and has a bearing on the total income of the assessee for the above two assessment years. Therefore, we are of the considered view that the satisfaction note recorded by the Assessing Officer u/sec.153C of the Act is not in accordance with law as provided u/sec.153C of the Act and this fact is further strengthened by the decision of Hon'ble Supreme Court in the case of CIT vs., Sinhgad Technical Education Society [2017] 397 ITR 344 (SC) wherein it has been clearly held that unless the Assessing Officer records satisfaction with reference to the incriminating material *qua* each assessment year, the initiation of proceedings u/sec.153C and consequent assessment proceedings is *null and void abinitio*. Since the satisfaction note recorded by the Assessing Officer is not a valid satisfaction, in our considered view, any assessment order passed by the Assessing Officer pursuant to the said "invalid satisfaction note" also *void abinitio* and liable to be quashed. Therefore, once the assessment order considered to be illegal assessment order, in our considered view, the assumption of jurisdiction by the PCIT to revise

the assessment order in terms of sec.263 of the Income Tax Act, 1961 is also illegal and *void abinitio* and liable to be quashed because an illegal order cannot be legalised by exercising revisionary power u/sec.263 of the Act. Therefore, we are of the considered view that, the order passed by the PCIT u/sec.263 of the Act is not sustainable in law. Thus, we quash the order passed by the PCIT u/sec.263 of the Income Tax Act, 1961.

22. The assessee has challenged the order passed by the PCIT u/sec.263 of the Act on many facets including the validity of jurisdiction of PCIT in light of approval granted by the JCIT/Addl. CIT u/sec.153D of the Act and also the powers of PCIT in light of decision of Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd., vs. CIT [2000] 243 ITR 83 (SC). Since, we have quashed the order passed by the PCIT u/sec.263 of the Act on the issue of invalid satisfaction note, in our considered view, the other grounds taken by the assessee are become academic in nature and does not require any specific adjudication. Therefore, all

other grounds taken by the assessee are dismissed as infructuous.

23. In the result, ITA.No.1322 & 1323/Hyd./2024 for the assessment years 2017-2018 and 2018-2019 of the assessee are allowed.

24. Same order to follow, in the remaining M/s. MSN group of companies i.e., ITA.Nos.1324 & 1325/Hyd/2024 in the case of M/s. Prathima Resorts & Restaurants Pvt. Ltd., Hyderabad, ITA.Nos.1326 & 1327/Hyd/2024 in the case of M/s. Prathima Eggset Private Limited., Hyderabad and ITA.Nos.1329 & 1330 /Hyd/2024 in the case of M/s. Spark Vidyut Pvt. Ltd., Hyderabad, for the assessment years 2017-2018 and 2018-2019, respectively.

25. To sum-up, all the above 08 appeals i.e., ITA.No.1322 & 1323/Hyd./2024; ITA.Nos.1324 & 1325/Hyd/2024, ITA.Nos.1326 & 1327/Hyd/2024 and ITA.Nos.1329 & 1330 /Hyd/2024 in the case of the above respective Assessee's are allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 09.04.2025

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 09th April, 2025

VBP

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| 1 to 4. | M/s. MSN Institute of Medical Sciences Pvt. Ltd., Hyderabad, (2) M/s. Prathima Resorts & Restaurants Pvt. Ltd., Hyderabad - 500 038. (3) M/s. Prathima Eggset Private Limited., Hyderabad - 500 034. (4) M/s. Spark Vidyut Pvt. Ltd., Hyderabad - 500 038. C/o. CA MV Prasad, D.No.60-7-13, Ground Floor, Siddhartha Nagar, 4 th Lane, VIJAYAWADA – 520 010. State of Andhra Pradesh. |
| 5. | The PCIT (Central), Aaykar Bhavan, Opp. LB Stadium, Basheerbagh, Hyderabad – 500 004. Telangana. |
| 6. | The Joint/Addl.CIT, Central Range-2, Hyderabad. |
| 7. | The DR ITAT “A” Bench, Hyderabad. |
| 8. | Guard File. |

//By Order//

//True Copy//