

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: F : NEW DELHI

BEFORE SHRI S. RIFAUZ RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.1709/Del/2015  
Assessment Year: 2013-14

DCIT,  
Central Circle-25,  
New Delhi.

Vs P.P. Jewellers Pvt. Ltd.,  
H.05, PP Tower,  
Netaji Subhash Place,  
Pitampura,  
Delhi.  
PAN: AAACP0874G

ITA No.1652/Del/2015  
Assessment Year: 2013-14

ITA No.3832/Del/2023  
Assessment Year : 2013-14

P.P. Jewellers Pvt. Ltd.,  
H.05, PP Tower,  
Netaji Subhash Place,  
Pitampura,  
Delhi.  
PAN: AAACP0874G

DCIT,  
Central Circle-25,  
New Delhi

(Appellant)

(Respondent)

Assessee by : Shri S.S. Nagar, CA  
Revenue by : Ms Suman Malik, CIT-DR  
Date of Hearing : 29.05.2025  
Date of Pronouncement : 30.05.2025

ORDER

PER ANUBHAV SHARMA, JM:

ITAs No.1709/Del/2015 and 1652/Del/2015 are cross appeals preferred  
by the Revenue and the assessee against the order dated 12.01.2015 of the

Commissioner of Income-tax (Appeals)-29, New Delhi (hereinafter referred to as the Ld. First Appellate Authority or 'the Ld. FAA', for short) in Appeal No.148/14-15/CIT(A)-29 arising out of the appeal before it against the order dated 16.06.2014 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Central Circle-25, New Delhi (hereinafter referred to as the Ld. AO). ITA No.3832/Del/2023 is an appeal preferred by the assessee against the order dated 27.10.2023 of the FAA in Appeal No.CIT(A), Delhi-29-10001/2018-19 arising out of the appeal before it against the penalty order dated 29.03.2018 passed by the AO.

2. On hearing both the sides, we find that from one Shri Vidhan Jain, one of the employees of the assessee at Indira Gandhi International Airport, on 02.11.2012 while he was travelling from Mumbai to Delhi, there was a recovery of gold jewellery weighing 13 Kgs and, based upon the same, the Assessing Officer of Shri Vidhan Jain recorded a satisfaction note on 06.12.2013, the copy of the same has been relied by ld. representatives of both the sides and we have taken into consideration the same. The said satisfaction note copy reflects that with regard to assessment year 2007-08 to 2013-14, this note was drafted and considering that provisions of section 153C are applicable the copy of satisfaction note was placed in the file of the assessee for taking necessary action in regard to the seized jewellery.

3. The Hon'ble Supreme Court in the case of ***Jasjit Singh (CIT Vs. Jasjit Singh 458 ITR 437 [SC])*** has laid down the law that as per provisions of section 153C of the Act, for taking action u/s 153C of the Act, date of search in the case of the other person, would be date of receiving books of account or documents or assets allegedly belonging to the other person and seized in the course of search of the searched person. It held as follows:

*".....However, in the case of the other person, which in the present case is the petitioner herein, such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of the other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date."*

3.1 Further the Hon'ble Delhi High Court, ***PCIT Vs Karina Airlines International Ltd((2024) 165 Taxmann.com 421 (Delhi)*** has held that the date of recording of the satisfaction in the case of the non-searched person qua the searched person becomes date of search in the case of other person [the assessee in the present case] as follows:-

*"20. It thus becomes apparent that it is the satisfaction arrived at under Section 153C which constitutes the cornerstone of that provision and the primary ingredient for Section 153C being set into motion. In our considered opinion, the actual or physical act of transmission of documents is merely a step in aid of formation of opinion whether an assessment under Section 153C is liable to be initiated. It is in that sense merely a machinery provision put in place to enable the AO of the non-searched person to examine whether an assessment is liable to be commenced under Section 153C of the Act. Thus, even in a case where the AO of the searched and the non-searched party be one and the same, it would be the formation of an opinion that the material is likely to "have a bearing on the determination of the total income.." which would constitute the core and the heart of Section 153C.*

*21. A harmonious interpretation of the main part of Section 153C and its Proviso lead us to hold that in cases where the jurisdictional AO is common, the commencement point would have to be construed as the date when the satisfaction is formed by the said AO with respect to such other person, In our considered view, even though there may not have been an actual exchange of material unearthed in the course of the search between two separate authorities, it would be the date when the AO records its satisfaction with respect to the non- searched entity which would be of seminal importance and constitute the bedrock for commencement of action under Section 153C."*

4. Thus, the law is now settled that in case of a person other than the searched person, the date of recording of the satisfaction note shall serve as the date of search. This satisfaction note has been recorded on 06.12.2013 and, therefore, the deemed search year will become AY 2014-15. Consequently, with regard to assessment year in hand, AY 2013-14, the assessment should have been completed u/s 153C of the Act and not u/s 143(2) of the Act.

5. We find that the assessment order have been passed u/s 143(3) of the Act. Further, in the assessment order, there is no mention as to when the notice u/s 153C was issued. At the time of final hearing, the ld. DR had called for the records and the same shows no notice u/s 153C of the Act was issued. At the same time, in the assessment order, it is mentioned that notice u/s 143(2) was issued on 23<sup>rd</sup> January, 2014. Further, we find that though in the title of the assessment order it is mentioned that the assessment order has been passed u/s 143(3) of the Act, the AO also mentions at the conclusion that the above order is passed with the prior approval of Addl. Commissioner of Income Tax, Central Range-5, New Delhi, vide letter F.No.Addl.CIT/CR-5/2014-15/181,

dated 12.06.2014. This show that the AO also mentioned this fact on the basis that necessary approval u/s 153D was sought and received for purpose of section 153C assessment.

6. Now, before us, amongst other grounds on merits, additional grounds have been raised by the assessee wherein the assessment order has been challenged on the basis of wrongful assumption of jurisdiction alleging that no notice u/s 153C of the Act was issued and the approval was also given in a very mechanical manner. However, no specific ground has been raised contending that the assessment should have been completed u/s 153C of the Act and not u/s143(3) of the Act as mentioned.

7. Admittedly, this issue was never raised before the lower authorities. But since the challenge to the jurisdiction of the Assessing Officer goes to the root of the matter, in light of the ratio laid down by the Hon'ble Supreme Court in the case of NTPC 229 ITR 383, the same deserves to be admitted and adjudicated. Accordingly, the additional plea raised for the first time is admitted, since it requires no verification of facts and the facts are very much in the body of the assessment order itself.

8. Taking cognizance of the aforesaid facts to decide the issue of alleged wrongful assumption of jurisdiction it is very much apparent that at one hand if the AO has passed the orders u/s 143(3) of the Act the same is not sustainable as

being part of the block search six years assessment should have been done u/s 153C of the Act. At the same time, no notice u/s 153C has been issued for assumption of jurisdiction and quite apparently these facts indicate that the approval, if any, was granted u/s 153D of the Act was without application of mind.

9. In the light of the aforesaid, the additional grounds are decided in favour of the assessee. The appeal of the assessee in ITA No.1652/Del/2015 is allowed. As a consequence the penalty order becomes no more sustainable. Therefore, the appeals of the Department in ITA No.1709/Del/2015 is dismissed and the appeals of the assessee are also allowed. The impugned assessment order and penalty order, both, are quashed.

Order pronounced in the open court on 30.05.2025.

Sd/-

(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Dated: 30<sup>th</sup> May, 2025.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi