

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: G : NEW DELHI
BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.2341 to 2343/Del/2024
Assessment Years: 2010-11 to 2012-13

Shreeaumji Infrastructue and Projects Pvt. Ltd., Neel House, Lado Sarai, Opp. Qutub Minar, Mehrauli, New Delhi – 110 030. PAN: AAJCS9723N	Vs	DCIT, Central Circle-25, New Delhi
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ITA No.2786/Del/2024)
Assessment Year: 2010-11

ACIT,
Delhi.

Shreeaumji Infrastructue and Projects
Pvt. Ltd.,
Neel House, Lado Sarai,
Opp. Qutub Minar, Mehrauli,
New Delhi – 110 030.
PAN: AAJCS9723N

(Appellant)

(Respondent)

Assessee by	: Shri Salil Aggarwal, Sr. Advocate, Shri Mahir Aggarwal, Advocate & Shri Uma Shankar, Advocate
Revenue by	: Shri Mahesh Kumar, CIT-DR
Date of Hearing	: 04.06.2025
Date of Pronouncement	: 13.06.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by both the assessee as well as the Revenue against the orders dated 08.03.2024 of the Ld. Commissioner of Income-tax

(Appeals)-28, New Delhi (hereinafter referred to as the ‘Ld. First Appellate Authority or ‘the Ld. FAA’ in short) in appeals filed before him against the orders dated 09.03.2024 of the ld. Dy. Commissioner of Income-tax, Central Circle-25, New Delhi (hereinafter referred to as the Ld. AO, for short) passed u/s 153C/143(3) of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’). Further details of the orders of the ld. FAA are as under:-

ITA No. & Assessment Year	Appeal No.
ITA No.2341/Del/2024, AY: 2010-11(A)	29/10034/2009-10
ITA No.2786/Del/2024, AY: 2010-11 (R)	- Do -
ITA No.2342/Del/2024, AY: 2011-12(A)	29/10055/2010-11
ITA No.2342/Del/2024, AY: 2012-13(A)	29/10074/2011-12

2. Heard and perused the record. The appeals were heard together as on behalf of the assessee a ground has been taken in appeal that the assumption of jurisdiction u/s 153C by the ld. AO is bad in law, barred by limitation and against the statutory provisions of the Act. Though this ground was not specifically raised before the ld.CIT(A), however, certainly, encompasses in the grounds raised questioning the assumption of jurisdiction.

3. In regard to this ground, the ld. Sr. Counsel has submitted that the search was conducted in the case of Shri Surender Kumar Arya, JBM Group of companies and key office bearers of the assessee on 05.10.2017, wherein allegedly incriminating evidences were discovered and, on the basis of the satisfaction note in search and seizure action, notice u/s 153C of the Act was issued in case of the assessee for AY 2010-11 to 2017-18 on 26.09.2019.

Accordingly, the assessments were completed in the years before us u/s 153C/143(3) of the Act.

4. Now, law with regard to block assessment years for which assessments can be completed in the case of 'other person' stands settled that it is from the date of handing over of incriminating material and recording of the satisfaction the block assessments periods have to be determined. On the admitted facts, it comes up that notices u/s 153C were issued on 26.09.2019 and, if recording of the satisfaction note and receiving of record from the assessing officer of the searched person is considered as 26.09.2019, the search year in the case of the present assessee as 'other person' would be 2020-21. In that case, assessments for AYs 2014-15 to 2019-20 would fall in the search years and the present assessment years fall beyond the block assessment periods.

5. Though the Id. DR has submitted that this amendment is prospective, however, the issue has been well considered in the case of ***Ojjus Medicare Pvt Ltd [2024] 61 taxmann.com 160 (Del)*** wherein it has held as under:

"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 Ltd v. Dy.CIT (2012) 346 ITR 177 (Delhi)(HC) and CIT v. RRJ Securities Ltd 2015 SCC Online Del 13085 as well as the decision of the Supreme Court in CIT v Jasjit Singh 2023 SCC Online SC1265. The aforesaid legal position also stood reiterated by the Supreme Court in ITO v. Vikram Sujitkumar Bhatia 2023 SCC Online SC”

370. The submission of the revenue, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted. 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.”

6. In the light of the aforesaid, we accept the jurisdictional ground as raised by the assessee. The impugned assessments are quashed. The appeals of the assessee are allowed and that of the Revenue is dismissed.

Order pronounced in the open court on 13.06.2025.

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 13th June, 2025.

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Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi