

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 366 to 372/Bang/2024
Assessment Years : 2012-13 to 2018-19

Shri Nithin Bagamane, 23/2, Coffeeday Square, Vittal Mallya Road, Bangalore – 560 001. PAN: AHXPB9872B	Vs.	The Deputy Commissioner of Income Tax, Central Circle – 1[3], Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri V. Srinivasan, Advocate
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	09-06-2025
Date of Pronouncement	:	15-07-2025

ORDER

PER BENCH

These are the appeals filed by the assessee challenging the common order passed by the Ld.CIT(A)-11, Bengaluru dated 31/12/2023 in respect of the A.Ys. 2012-13 to 2018-19.

2. All these appeals are related to the same assessee and the issue involved in all the appeals are similar and therefore we decided to take up all the appeals together and pass a common order for the sake of convenience.

3. We will take up the appeal in ITA No. 366/Bang/2024 for A.Y. 2012-13 as the lead case and the result arrived in the said appeal will apply mutatis mutandis to the appeals in ITA Nos. 367 to 372/Bang/2024 for A.Ys. 2013-14 to 2018-19. Since the grounds raised by the assessee in all the appeals are identical, grounds of appeal raised for the A.Y. 2012-13 in ITA No. 366/Bang/2024 is reproduced herein below for reference.

“1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned Commissioner of Income tax [Appeals] erred in upholding the validity of the assessment order that is barred by limitation in as much as the Department is unable to establish that the said order was passed before the expiry of the limitation as it has been served only on 01/01/2020 under the facts and in the circumstances of the appellant’s case.

3. Without prejudice to the above, the learned CIT[A] ought to have appreciated that the search action conducted in the premises of the appellant based on the strength of the warrant issued in the name of M/s. Coffee Day Group and consequent seizure of documents therein was illegal and therefore, the proceedings initiated u/s. 153C of the Act based on such illegal search action was also illegal and therefore, the order passed ought to have been cancelled.

4. Without prejudice to the above, the learned CIT[A] ought to have held that the order of assessment passed u/s. 153C of the Act is bad in law and void-ab-initio as conditions precedent to invoke the provisions of sec. 153C of the Act viz., the discovery of any assets / documents in course of search conducted in the case of any person that belongs to the appellant and is relevant for computing the income of the appellant for the year under appeal is totally absent.

5. Without prejudice to the above, the learned CIT[A] is not justified in upholding the addition made u/s. 69C of the Act of Rs. 23,25,000/- in respect of the payment made to one Mrs. Sheela Sawhney that was erroneously offered by the appellant in his statement u/s. 132[4] of the Act, under the facts and in the circumstances of the appellant's case.

6. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly

prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.”

4. The brief facts of the case are that the assessee is an Individual and also Director of the companies viz., M/s. Kesar Marble and Granites Ltd and M/s Bagamane Ventures Pvt Ltd. The assessee's company M/s. Bagamane Ventures Pvt. Ltd. had taken on lease a premises on the 7th floor in the corporate office building of the Coffee Day Global Ltd. at 23/2, Vittal Mallya Road, Bangalore, by way of a sub-lease agreement dated 31/08/2016. From that date onwards, the said company is operating its business from the said 7th floor. In that circumstances, the Principal Director of Income Tax, Investigation Wing, Bangalore had issued a warrant of authorisation in Form No. 45 to search the premises of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. Based on the said warrant, the search was conducted in the premises of M/s. Coffee Day Group on 21/09/2017. At that time, the officers of the department also searched the premises of M/s. Kesar Marble and Granites Ltd. which is a different identity from M/s. Coffee Day Group and they seized incriminating materials pertaining to the assessee as well as the company. Thereafter, notice u/s. 153C was issued to both the assessee as well as the company. The assessee filed their return of income pursuant to the notice issued u/s. 153C. Based on the seized materials, the AO made the additions and completed the assessment u/s. 153C of the Act. The said assessment orders were challenged by the assessee before the Ld.CIT(A) and the assessee raised legal grounds as well as grounds on merits. The Ld.CIT(A) had dismissed the legal grounds raised by the assessee and allowed some portion of the income added u/s. 69C of the Act. As against the said orders of the Ld.CIT(A), the assessee is in appeal before this Tribunal.

5. The Ld.AR at the time of hearing vehemently argued that the search conducted at the business premises of the assessee's company, for which no warrant has been issued, is illegal and therefore based on the said illegal search, the assessments made on the assessee is also an illegal one. The

Ld.AR filed a paper book comprising pg nos. 1 to 206 and also a memo enclosing the typed copy of the panchanama and submitted that admittedly, the panchanama exhibits the place to be searched is Coffee Day Global Ltd. at No. 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore and also the warrant is in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd.

6. The Ld.AR relied on the statements recorded u/s. 132(4) on 14/11/2017 and 26/03/2018 in which the authorities had categorically admitted that the office at the 7th floor of the Coffee Day Square was searched u/s. 132 of the Act and therefore the authorities had no warrant to search the premises of the assessee's place of business situated at the 7th floor of the Coffee Day Square Building. The Ld.AR also draw our attention to the sub-lease agreement dated 31/08/2016 and submitted that the sub-lease agreement was executed between the Coffee Day Global Ltd. and Bagamane Ventures Pvt. Ltd. and therefore the authorities has no right to enter the business premises of the Bagamane Ventures Pvt. Ltd. without any valid warrant issued by any of the authorities. The Ld.AR also submitted that the assessee is the Managing Director of M/s. Kesar Marble and Granites Ltd. and also Managing Director of the sub-lessee M/s. Bagamane Ventures Pvt. Ltd. and therefore he submitted that there is no warrant of authorisation issued u/s. 132 of the IT Act against the business premises of Bagamane Ventures Pvt. Ltd. or against the assessee which is situated at the 7th floor of the Coffee Day Square. The Ld.AR also submitted that the notice issued u/s. 153C is not a valid one on the ground that the assessee's premises was searched and documents seized and therefore the notice would have been issued u/s. 153A of the Act. In the rejoinder, the Ld.AR also questioned the validity of the statement recorded u/s. 131 of the Act by the DDIT, after the search has been completed. The Ld.AR mainly urged these legal grounds and submitted that if the said legal ground is decided, the issue on merits could be decided thereafter, based on the outcome of the legal grounds raised by the assessee.

7. The Ld.AR initially filed a memo enclosing the typed copy of the panchanama dated 24/09/2017. Subsequently, the Ld.AR also filed another memo on 20.05.2025 enclosing the certificate of incorporation issued in the name of Bagamane Ventures Pvt. Ltd. by the Registrar of Companies, the registration certificate issued by the GST authorities in the name of Bagamane Ventures Pvt. Ltd. and also the registration certificate issued in the name of the assessee under the GST Act. The Ld.AR also furnished the audit report in Form GST ADT-02 in the name of Nithin Bagamane to show that the assessee along with his two companies viz., Kesar Marbles & Granites and Bagmane Venture Pvt. Ltd. are carrying on their business in the 7th floor of the Coffee Day Square building. The Ld.AR also filed a rejoinder to the written submissions filed by the Ld.DR .

8. The Ld.DR filed his written submission on 01.05.2015 and also enclosed the Form No. 45, warrant of authorisation issued u/s. 132 of the Act and also enclosed the reasons recorded for issue of notice u/s. 153C in the case of the assessee and also the recording of the satisfaction u/s. 153C by the AO of the searched person and also relied on the Hon'ble Jharkhand High Court judgement as well as the Circular No. 549 dated 31/10/1999 and submitted that the ground no. 2 is not sustainable. Insofar as the ground no. 3, about the illegal search, the Ld.DR submitted that the Coffee Day Square building was duly authorised to search as evidenced by the Form No. 45 and therefore the search could not be treated as an illegal one. Insofar as the ground no. 4, the Ld.DR submitted that the assessment made u/s. 153C of the Act is based on the seizure of the incriminating materials and therefore submitted that the said ground is also not sustainable. The Ld.DR further submitted that ground no. 5 is also not correct since the assessee had admitted the payments made to one Mrs. Sheela Sawhney which was made based on the seizure of the documents and also based on the statements given by the assessee.

9. The Ld.DR also filed a paper book on 24.06.2025 in which the written submissions as well as the statements recorded u/s. 131 and 132(4) were

furnished. The Ld.DR also furnished the Form 45, copy of the panchanama dated 24.09.2017 and 24.11.2017, list of account books found and seized on 21.09.2017 and 14.11.2017 and the copy of the said satisfaction note dated 05.03.2019 and the recording of the reasons for the issuance of the notice u/s. 153C.

10. We have heard the arguments of both sides and perused the materials available on record.

11. First we will consider the legal grounds raised by the assessee. The assessee is an individual carrying on his business in the 7th floor of the Coffee Day Square building. The assessee is also a Director in M/s. Kesar Marble and Granites Ltd. and M/s. Bagamane Ventures Pvt. Ltd. Admittedly, the Bagamane Ventures took lease of the 7th floor of the Coffee Day building from M/s. Coffee Day Global Ltd. by way of lease deed dated 31/08/2016. In the income tax proceedings, the assessee is having a separate PAN No. and both the companies are also having separate PAN Nos. and all the three have filed their return of income to the department by showing the address as 23/2, Vittal Mallya Road, Bangalore. From the submissions and documents filed by the Ld.AR, we came to know that there is no connection between the assessee and his two companies with that of M/s. Coffee Day Global Ltd. and M/s. Coffee Day Holdings except carrying on their business in the Coffee Day Square building.

12. In such circumstances, the revenue proposed to conduct a search in the premises of Coffee Day Global Ltd. and to that effect the warrant of authorisation in Form 45 was issued in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. at 23/2, Vittal Mallya Road, Bangalore. During the said search, the authorities had also searched the premises of the assessee who is having his own office and companies in the 7th floor of the said building. To enter into the premises of the assessee as well as his companies, there is no warrant of authorisation issued by the authorities. It is a settled law that the authorities to conduct

a search, necessarily they should have an authorisation of warrant to search the said premises. If the premises searched by the authorities, based on the warrant issued in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd., 23/2, Vittal Mallya Road, Bangalore, are related to the Coffee Day Group, then there is no need to get a separate warrant of authorisation to search the said premises. The 7th floor of the Coffee Day Square is not in the occupation of the Coffee Day group but it was leased out to M/s. Bagamane Ventures Pvt. Ltd. In such circumstances, the authorities ought to have got proper authorisation to enter the premises of the assessee situated in the 7th floor of the Coffee Day Square.

13. To safeguard the personal liberty of the assessees, the Statute prescribed various procedures for conducting search in their premises. In the present case the warrant of authorisation as well as the panchanama clearly establishes the fact that the warrant was issued in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd., 23/2, Vittal Mallya Road, Bangalore. It does not give authorisation to the authorities to enter the premises of the another assessee or company when they are independent entities and having their own business ventures. We have also perused the various documents furnished by the assessee, which are as follows

- a) Lease agreement dated 31/08/2016
- b) Certificate issued by the Registrar of Companies
- c) GST registration certificates

14. From the above said documents furnished by the assessee, we understand that the assessee is having its own business establishments in the 7th floor of the Coffee Day Square and there is no connection between the assessee and Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore. It is not the case of the department that the search warrant was also issued in the name of the assessee and therefore the subsequent

proceedings initiated is in accordance with law. In this case the department also admitted that there is no warrant of authorisation available to search the premises of the assessee. The AO had admitted the said facts in his remand report filed before the Ld.CIT(A).

15. The Ld.CIT(A) had rejected the submissions made by the assessee in respect of the search conducted in his premises on the premise that the search action could not be questioned by any of the authorities by relying on the explanation given in sub-clause (1) of section 132. We have also gone through section 132 which deals with the search and seizure and also the explanation inserted by Finance Act, 2017. The legislature by way of inserting the Explanation to section 132(1) had not barred the assessee from questioning the validity of the search but explained that the reasons recorded by the income tax authority under this sub-section shall not be disclosed to any person or any authority or the appellate Tribunal. From the said explanation inserted, we understand that the reasons recorded by the authorities for conducting the search and seizure need not be divulged to any of the authorities including this Tribunal. It does not say that the Tribunal cannot decide about the search and seizure altogether. If the search has been conducted without any authorisation, definitely this Tribunal can look into the facts and circumstances and decide whether the search has been carried out in accordance with the provisions of the Act or not. The Ld.CIT(A) had relied on various judgments of different High Courts which are all not on the facts of the present case and therefore the reliance made on the said judgements by the Ld.CIT(A) to reject the legal plea raised by the assessee is not correct.

16. In the present appeal, the assessee had not attacked the reasons recorded by the income tax authorities but only pointed out that the search conducted in the premises of the assessee based on the warrant issued in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore is not correct.

17. We have also perused the written submissions filed by the Ld.DR and the rejoinder filed by the Ld.AR. The Ld.DR in the paper book filed on 24.06.2025, apart from the written submissions also enclosed the statements recorded u/s. 131 and 132(4) of the Act, warrant of authorisation issued u/s. 132, copy of panchanamas dated 24.09.2017 and 24.11.2017, inventory of account books found and seized on 21.09.2017 & 14.11.2017, copy of satisfaction note dated 05.03.2019 recorded u/s. 153C and recording of reasons for the issuance of the notice u/s. 153C of the Act. The assessee also filed a rejoinder to the said written submissions filed by the Ld.DR and made further legal pleas that the statement recorded u/s. 131 by the DDIT on 31.10.2017 is also not in accordance with the said provision 131 of the Act.

18. Further, we have also perused the reasons recorded for the issue of notice u/s. 153C of the Act in which the documents seized from the searched premises are extracted as below:

Sl. No.	Description of the Seized Document	Annexure/Sl.No./Pg.No. etc.
1.	Folder containing loose sheets serially numbered from 1 to 431 found and seized from 7 th Floor of Coffee Day Square related to Shri. Nitin Bagmane and his companies.	Annexure : A/CCDGLT8/19. Page No. : 149 to 172, 173 to 176, 187 to 191, 193, 196, 197, 285, 401 to 403, 405, 406, 409, 410 to 419, 420 to 422, 424 to 429, 430 & 431.
2.	Yellow colour Ramdev Deluxe Register containing written pages serially numbered from 1 to 20 found and seized from 7 th Floor of Coffee Day Square related to Shri. Nitin Bagmane and his companies.	Annexure : A/CCDGLT8/20 Page No. : 10, 10A, 11, 12, 13, 14, 16, 17,
3.	Blue folder containing blue colour Nadhi note book with written pages serially numbered from 1 to 5 found and seized from 7 th Floor of Coffee Day Square related to Shri. Nitin Bagmane and his companies.	Annexure : A/CCDGLT8/23. Page No. : 1, 3, 4 & 5.

Note: The above list is not exhaustive but only an illustrative sample.

19. We have also perused the satisfaction recorded u/s. 153C by the AO of the searched person viz., Coffee Day Group, Coffee Day Global Ltd. and in the annexure, the description of the seized documents were mentioned as follows:

Sl. No.	Description of the Seized Document	Annexure/SI.No./Pg.No. etc.
1.	Folder containing loose sheets serially numbered from 1 to 431 found and seized from 7 th Floor of Coffee Day Square related to Shri. Nitin Bagmane and his companies.	Annexure : A/CCDGLT8/19. Page No. : 149 to 172, 173 to 176, 187 to 191, 193, 196, 197, 285, 401 to 403, 405, 406, 409, 410 to 419, 420 to 422, 424 to 429, 430 & 431.
2.	Yellow colour Ramdev Deluxe Register containing written pages serially numbered from 1 to 20 found and seized from 7 th Floor of Coffee Day Square related to Shri. Nitin Bagmane and his companies.	Annexure : A/CCDGLT8/20. Page No. : 10, 10A, 11, 12, 13, 14, 16, 17,
3.	Blue folder containing blue colour Nadhi note book with written pages serially numbered from 1 to 5 found and seized from 7 th Floor of Coffee Day Square related to Shri. Nitin Bagmane and his companies.	Annexure : A/CCDGLT8/23. Page No. : 1, 3, 4 & 5.

20. On going through the above said warrant of authorisation, panchanama, reasons recorded for issue of notice u/s. 153C and the reasons recorded u/s. 153C by the AO of the searched person, it is clear that the authorities have issued the warrant of authorisation in the name of Shri V.G. Siddhartha, Coffee Day Group and the panchanama also mentioned the address of the place for which the warrant has been issued as 23/2, Coffee Day Square, Vittal Mallaya Road, Bangalore. There is no warrant of authorisation given by any of the authorities in the name of the assessee or in the name of the companies occupying the 7th floor of the Coffee Day Square. It is a fact that the companies situated in the 7th floor is also an assessee and filed their return of income regularly. They are also registered under the Companies Act, Goods and Service Tax Act and other enactments. The sub-lease deed executed by Coffee Day Holdings Ltd. is in the name of the Bagamane Ventures Pvt. Ltd. and would establishes the fact that the assessee is having business establishments in the 7th floor of the Coffee Day Square building and also paying lease rent to the sub-lessor M/s. Coffee Day Global Ltd. Therefore the legal grounds raised by the assessee that the authorities have no valid authorisation to enter the premises of the assessee as well as the companies in the 7th floor appears to be correct. As discussed earlier, the recovery of seized materials were all from the 7th floor premises of the Coffee Day Square building. Therefore, the department cannot now say that the alleged documents were recovered from the Coffee Day group company. Moreover, the contention of the department that the incriminating documents were recovered from the office of M/s.

Coffee Day Global Ltd. at Coffee Day Square also not correct since right from the date of search, it was the case of the department that the documents were seized from the 7th floor of the Coffee Day Square building and not from any of the office premises of the Coffee Day Group. When the documents shows the fact that the 7th floor of the Coffee Day Square building was searched based on the warrant of authorisation issued in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd., we find that the authorities had no valid authorisation to search the premises of the assessee or in particular the 7th floor in which the M/s. Coffee Day Group has no activities.

21. We have also perused the statements recorded on 14/11/2017 and 26/03/2018. In all the statements recorded, it was clearly mentioned by the authorities that the Chamber of the assessee situated at the 7th floor of the office premises of M/s. Coffee Day Global Ltd. at 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore was searched u/s. 132 of the Act on 21/09/2017. It was further seen that the alleged incriminating documents were also recovered from the same place. In the statement given on 26/03/2018, the assessee had explained that he is the Managing Director of M/s. Kesar Marble and Granites Ltd. and M/s. Bagamane Ventures Pvt. Ltd. From the sub-lease agreement, we find that M/s. Coffee Day Global Ltd. had constructed the multi-storeyed building called as Coffee Day Square and in the said multi-storeyed building, the 7th floor is occupied by M/s. Bagamane Ventures Pvt. Ltd. along with M/s Kesar Marble and Granites Ltd which are owned by the assessee.

22. We have also extracted the Form No. 45, Warrant of Authorisation issued u/s. 132 of the Act and the panchanama drawn for the sake of convenience.

FORM NO. 45

(See rule 112)

Warrant of authorisation under section 132 of the Income-tax Act, 1961, and rule 112(1) of the Income-tax Rules, 1962

To The Addl. Director / Addl. Commissioner VIMAL ANAND
The Joint Director / Joint Commissioner
The Deputy Director / Deputy Commissioner PRADEEP S, AMIT DORAIKATU,
The Assistant Director / Asst. Commissioner T-SUNIL GOUTAM, SIVA PRALAD,
The Income-tax Officer NISHU PARMA, MOHITENIA,
S. S. ANANDHARAJU, SOMASEKHAR, C. SRINIVASALU,
S. VINAY KANU

Whereas information has been furnished to me and on the consideration thereof I have reason to believe that-

A summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 131 of the Income-tax Act, 1961, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of the Income-tax Act, 1961, was issued by [The Addl. Commissioner / The Joint Commissioner / Deputy Commissioner / Asst. Commissioner / The Income-tax Officer] to [name of the person] on [date] to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice he and she has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice ;

A summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922, or sub-section (1) of section 131 of the Income-tax Act, 1961, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of the Income-tax Act, 1961, was issued by [The Addl. Commissioner / The Joint Commissioner / Deputy Commissioner / Asst. Commissioner / The Income-tax Officer] to [name of the person] on [date] to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice he and she has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice ;

If summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 131 of the Income-tax Act, 1961, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of the Income-tax Act, 1961, was issued to SHRI V.G. SIDDHARTHA, M/s COFFEE DAY ENTERPRISES LTD, M/s COFFEE DAY GLOBAL LTD, [name of the person] to produce, or cause to be produced, books of account or other documents which will be useful for, or relevant to, proceedings under the Indian Income-tax Act 1922, or under the Income-tax Act, 1961, he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice ;

Sarvasvini/Shri/Shrimati SHRI V.G. SIDDHARTHA, M/s COFFEE DAY ENTERPRISES LTD, M/s COFFEE DAY GLOBAL LTD are /is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be disclosed for the purposes of the Indian Income-tax Act, 1922, or the Income-tax Act, 1961.

W1: ... 14/11/2017 W2: Kammurath 14/11/2017

And whereas I have reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing have been kept and are to be found in COFFEE DAY GLOBAL LIMITED, No. 23/2, COFFEE DAY GROUP, VITAL MALLYA ROAD, BANGALORE

(specify particulars of the Building/Place/Vessel/Vehicle/Aircraft) ; This is to authorise and require you - AS SPECIFIED OVERLEAF - [name of the Addl. Director or of the Addl. Commissioner or of the Joint Director or of the Joint Commissioner or of the Deputy Director or of the Deputy Commissioner or of the Assistant Director or of the Assistant Commissioner or of the Income tax Officer]

- (a) To enter and search the said building/place/vessel/vehicle/aircraft.
(b) To search any person who has got out of, or is about to get into, or is in the building, place, vessel/vehicle/aircraft if you have reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing.
(c) To place identification marks on such books of account and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks.
(d) To examine such books of account, and documents, and make, or cause to be made copies or extracts from such books of account and documents.
(e) To seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search and take possession thereof.
(f) To make a note or an inventory of any such money, bullion, jewellery, or other valuable article or thing.
(g) To convey such books of accounts, documents, money, bullion, jewellery, or other valuable article or thing to the office of the [Addl. Commissioner/ Joint Commissioner/ Deputy Commissioner/Asst. Commissioner] of Income-tax or any other authority not below the rank of the Income-tax Officer employed in the execution of the Income-tax Act, 1961; and
(h) To exercise all other powers and perform all other functions under section 132 of the Income-tax Act, 1961, and the rules relating thereto.

Seen Achari's legal friend 21/9/17

Seen Kavyas Rishabh 21/9/17 02:45 am 24/9/17

You may requisition the services of any police officer or any officer of the Central Government or of both, to assist you for all or any of the purposes specified in sub-section (1) of section 132 of the Income-tax Act, 1961

W1: [Signature] 21/11/17 W2: [Signature] 21/09/2017 Date 20.09.2017

14/11/17 Director-General / Pr. Director of Income - Tax (Investigation) Chief-Commissioner / Commissioner of Income - Tax Addl. Director / Addl.-Commissioner of Income - Tax



Seen Ashwin 21/9/17 For Mr. N. Srinivasan

202-241104 / R. RAVICHANDRAN 202-241104-202 Principal Director of Income Tax (Inv.) Bengaluru

**GOVERNMENT OF INDIA
INCOME TAX DEPARTMENT, BENGALURU
PANCHANAMA**

Party No. 18

- 1 Warrant in the case of : Shri V G Siddhartha
M/s. Coffee Day Enterprises Ltd,
M/s. Coffee Day Global Ltd
- 2 Warrant to search : Coffee Day Global Ltd, No. 23/2,
"Coffee Day Square", Vittal Mallya
Road,
BANGALORE.
(Details & Ownership
of place of search)
- Telephone Numbers : _____
- 3 (1) and (2) assessed at : (1)_____ (2)_____
- 4 Search Party consisting of:

Name of the Authorised Officers:

Sl.No.	Name	Designation	Station where posted
1	Shri Prasdeep S	DDIT {inv}	Bangalore
2	Shri Amit Dorairaju	DDIT {inv}	Bangalore
3	Shri T Sunil Goutam	DDIT {inv}	Bangalore
4	Shri Shiva Prasad	DDIT {inv}	Bangalore
5	Ms Moatenla	DCIT	Bangalore
6	Shri H S Subbanna	ITO(Inv)	Bangalore
7	Shri Soma Shekhar H	ITO	Bangalore

Other officials who assisted the authorised officers

Sl.No.	Name	Designation	Station where posted
1	Shri Vaibhav Singh	ITI	Bangalore
2	Shri Naveen Bansal	ITI	Bangalore
3	Shri Sudhansu	ITI	Bangalore
4	Shri Sumit kumar Teotta	ITI	Bangalore
5	Shri Hari Om Meena	ITI	Bangalore
6	Shri Ashish	ITI	Bangalore
7	Shri Pradeep Gangwar	ITI	Bangalore
8	Shri Manoj Sjharna	ITI	
9	Shri Vijay Kumar	ITI	Bangalore
10	Shri Jamkhan Muan B	ITI	Bangalore

11	Shri Prema Ram	ITI	Bangalore
12	Smt. Madhuri Mohan	ITI	Bangalore
13	Shri Rahul Pundhir	TA	Bangalore

5. Name and complete address of panchanas :

Shri S S Parswanth No.452, 6 TH Cross, 2 nd Main, Rma Krishna Nagar, 1st Block, Mysore Mob. 9036010452	Shri K M Srinivas No.62, S-11, 2 nd Floor, Srvatsa Prasiddi Aptmt Yelachennahalli Bangalore – 62 Mob No. 9480880203
--	--

On being called by Shri Siva Prasad, DDIT(Inv) on 21/09/2017 at 11.10 AM, we, the above named panchas, presented ourselves at the above place of search. The authorised Officer, Shri Siva Prasad, DDIT(Inv) showed the warrant of authorization dated 20/09/2017 issued under section 132 of the Income-tax, 1961/37A of the W.T. Act, 1957 in the case of [1] above, to search the place mentioned at [2] above and duly signed by the Pr. Director of Income-tax [Inv.], Bangalore to Ms. Kavya S, Shri Ashwin.S, Smt. Asha, who were present in the said place at the time and who after reading the said authorization signed it, in our presence and alongwith us, in token of having perused the same.

6.

7. The above mentioned search party offered themselves for personal search before commencing the search, which was taken.

8. A search of the above mentioned place was carried out by the said party in our presence in an orderly manner without hurting the sentiments of any of the occupants of the premises. Nothing untoward happened in the course of search.

9. In course of search.

a) The following were found and seized :-

- i) Books of accounts and documents as per Annexure "A/CCDGLT8" Four sheets.
- ii) Bullion i.e., gold, silver, etc., as per annexure "B" /Nil sheets
- iii) Cash as per annexure "C" – NIL - sheet(s)

- iv) Jewellery, ornaments, etc., which have been inventorised separately for each place from where recovered, as per annexure "D" – Nil - sheet(s)
 - v) Silver articles and silverware as per annexure "S" - Nil sheets
 - vi) Other valuables, lockers, keys, F.D's etc., as per annexure "O" – Nil – sheets
 - vii) Other valuables, Stock-in-trade, foreign currency, etc, seized under second proviso to Sec. 132(1) of the I T Act, as per annexure "CS" – NIL – sheet(s)
- (b) The following were found but not seized:
- (i) Books of account and documents as per annexure "1" – NIL sheet(s)
 - (ii) Bullion i.e. Gold, Silver etc as per annexure "2" – NIL sheet(s)
 - (iii) Cash as per annexure "3/CCDGLT8" – Two sheets.
 - (iv) Jewellery, Ornaments etc., which have been inventoried separately for each place from where recovered, as pwer annexure "4" – NIL sheet(s).
 - (v) Other valuables, Locker Keys, FDs/ Stock-in-trade, foreign currency as per annexure "5" – NIL sheet(s).

10.. In the course of the search, the authorised officer Shri Siva Prasad, DDIT (Inv), Shri H S Subbanna, ITO (inv), recorded the statements of 1. Shri Mohan Raj, 2. Sh,ri Philip Thomas Athyal, 3. Smt. Asgha R Muttadar, 4. Shri K M Deekshith, 5. Shri Narendra App[aiya. 6. Smt. Sujatha Singh, 7. Shri Sasdanand Poojari 8. Shri V G Siddhartha 9. Shri Ashwin Sadanand on oath, in our presence. No coercion, threat, inducement, promise or other undue influence was brought to bear on the above deponent. The statement was read over explained by the Deponent who signed the statement in token having understood its contents and of agreeing that it had been correctly recorded.

11. The following other important persons were present in the place of search and either took an active part in or helped the search proceedings:

Name	Relationship	Signature

12. The search commenced on 21/09/2017 at 11.25 AM. The proceeding were closed on 24/09/2017 at 10.10. AM as temporarily concluded for the day to be commenced subsequently for which purpose seals were placed on 1, the wooden cupboard adjacent to the washroom in Mr. Nitin Bagmane's chamber at 7th floor of No.23/2, "Coffee Day Square", Vittal Mallya Road, BANGALORE – 2, Store Room, situated at 4th floor of No.23/2, "Coffee Day Square", Vittal Mallya Road, BANGALORE in our presence.

13. The order(s) under section 132 of the I.T. Act, 1961 in respect of the sealed premises 1. The wooden cupboard adjacent to the wash room in Mr. Nitin Bagmane's chamber at 7th Floor of 23/2, "Coffee Day Square", Vittal Mallya Road, BANGALORE – 2, Store Room, situated at 4th Floor of No, 23/2, "Coffee Daty Square", Vittal Malltya Road, BANGALORE, were served on 1. Smt. Kavya/ Shri Ashwin S by the authorised officer.

14. Before leaving the above mentioned place of search the entire search party again offered themselves for personal search which was taken. The Panchanama has been read by it has been correctly recorded.

1. Sd/- 24/09/2017
Signature of the Panchas with date

2. Sd/- 24/09/2017

Sd/-
Signature of the Authorised Officer
Name: [S.V. SIVA PRASAD. IRS]
Designation: Dy, Director of Income-tax [Inv.]
Unit-3[4], Bangalore
Date:

Sd/- 24/09/2017
Signature of the person receiving the copy
of panchanama

:

Name :
Position/relationship of "A"
Date :

23. In the said warrant of authorisation, it was clearly mentioned that the name of the place to be searched is Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. We have also seen the typed copy of the panchanama which also clearly mentioned that the warrant is in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s.

Coffee Day Global Ltd. and the warrant to search the place was mentioned as M/s Coffee Day Global Ltd., 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore.

24. The revenue's contention is that the warrant of authorisation even though issued in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore it mentioned the address as the building at 23/2, Vittal Mallya Road, Bangalore and therefore the search conducted by the department on the 7th floor of the building is correct. We do not find that the said argument is correct since the assessee is an individual and also one of the companies in which the assessee is a Director, had took lease the 7th floor of the Coffee Day Square building and the said companies and the assessee are occupying the 7th floor of the said building with separate GST registration numbers as well as the different PAN Nos. and also obtained the license from the Registrar of Companies by mentioning the company's address as 23/2, Vittal Mallya Road, Bangalore. The registration certificate under the GST Act as well as the Certificate of Incorporation issued by the Registrar of Companies are all statutory documents and therefore they cannot be simply brushed aside. When the assessee is able to demonstrate that the 7th floor is occupied by him and his companies, the authorities could not enter into that premises based on the warrant of authorisation obtained in the name of Shri V.G. Siddhartha, M/s. Coffee Day Enterprises Ltd., M/s. Coffee Day Global Ltd. 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore. It is a basic requirement that before entering into any of the premises, it is necessary on the part of the authorities to have the warrant of authorisation in the name of the person who is in the occupation of the said office / residence. Otherwise, it would be an infringement on the privacy of the assessee. If the assessee is a part of the Coffee Day group and the authorities also believes that some of the documents are available in the custody of the assessee, then the authorities can very well enter into the assessee's premises and made the search and seized the documents. But in the present case, there is no iota of evidence

to connect the assessee with the person and the company in whose name the warrant of authorisation was issued. Unless and until the said connection has been established, the search conducted by the authorities based on the warrant of authorisation issued in some third party's name, search could not be done. Therefore, the search conducted by the department in the 7th floor premises of the Coffee Day Square building is not an authorised one and therefore the entire search on the 7th floor of the Coffee Day Square in which the assessee is running business entities was an illegal one.

25. We have also considered the another legal plea raised by the assessee that the notice issued u/s. 153C of the Act and the consequential proceedings made by the AO is not correct on the ground that the search was conducted in the premises of the assessee at the 7th floor of the Coffee Day Square Building and incriminating materials were recovered from the office premises of the assessee and therefore the AO ought to have invoked section 153A of the Act and not section 153C of the Act. We have perused the materials and the statements recorded at the time of search and from the said perusal, we are of the view that the search has been conducted in the premises of the assessee and therefore the AO should have initiated proceedings u/s. 153A of the Act. In case the search was conducted in the premises of the Coffee Day Group i.e. Coffee Day Enterprises Ltd. and Coffee Day Global Ltd. and the incriminating documents relating to the assessee were seized in their place, the AO could have initiated proceedings u/s. 153C of the Act. But in the present case, it is also admitted by the department that the search was carried out in the 7th floor of the Coffee Day Square Building and documents were seized in which the assessee is having his own business and therefore the proceedings initiated u/s. 153C of the Act is bad in law. Therefore even on the above said reason, the assessment made by the AO which was confirmed by the Ld.CIT(A), is liable to be set aside.

26. Another argument advanced by the assessee is that the AO had relied on the statement given by the assessee on 31.10.2017 which was recorded u/s. 131 of the Act. The AO for every addition had relied on the said statement. We have also perused the said statement recorded on 31.10.2017. We find that the said statement was recorded after the search was made and completed on 24/09/2017 by the Deputy Director of Income Tax (Investigation), Bengaluru. The Ld.AR in the rejoinder filed on 25.06.2025 had also submitted that the statement recorded u/s. 131 of the Act by the DDIT(Investigation) is not correct and after the search was completed, the DDIT has no authority to record any statements u/s. 131 of the Act and only the AO can record the statement u/s. 131 of the Act. The section 131 of the Act speaks about the power regarding discovery, production of evidence, etc by the various officers of the department. For the sake of easy reference, we are extracting section 131 of the Act.

“Power regarding discovery, production of evidence, etc.

131. (1) *The Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner ⁷⁴, Joint Commissioner (Appeals), Commissioner (Appeals), Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the Dispute Resolution Panel referred to in clause (a) of sub-section (15) of section 144C shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :—*

- (a) *discovery and inspection;*
- (b) *enforcing the attendance of any person, including any officer of a banking company and examining him on oath;*
- (c) *compelling the production of books of account and other documents; and*
- (d) *issuing commissions.*

(1A) If the Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director or Deputy Director, or the authorised officer referred to in sub-section (1) of section 132 before he takes action under clauses (i) to (v) of that sub-section, has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no

proceedings with respect to such person or class of persons are pending before him or any other income-tax authority.”

27. From the perusal of the above said provision, the Deputy Director of Investigation is not having any powers to record the statements after the search has been completed but only the assessing officers can invoke the powers granted u/s. 131 of the Act. The Ld.DR had also not furnished any records or documents to show that the Deputy Director of Investigation could be treated as an assessing officer and therefore he is entitled to record the statement u/s. 131 of the Act. Once the search has been completed, in our opinion, the Deputy Director of Investigation becomes functus officio and therefore he is not entitled to record anything u/s. 131 of the Act. When the facts are clear that the statement recorded u/s. 131 of the Act is not correct, the reliance made by the Assessing Officer for making the each and every addition could not be sustained.

28. Even though the entire materials are available before the Ld.CIT(A), the Ld.CIT(A) had given a finding that the search was a valid one and therefore the further proceedings done by the AO are also in accordance with the result of the search. Further, as already discussed, the notice issued u/s. 153C and the statement recorded u/s. 131 of the Act are all against the provisions of the Act and, therefore, based on that no assessment could be made.

29. Further the Ld.CIT(A) also gave a finding that, even assuming that the search is illegal, the fact remains that various incriminating materials were seized which would establishes the fact that huge suppressions were made by the assessee and therefore the assessment made on the assessee is not an illegal one. We do not agree with the above said finding of Ld.CIT(A) when there are patent violations committed by the authorities while conducting the search. If we accepted the said finding of the Ld.CIT(A), it would amounts to approve the illegal acts done by the authorities by shutting our eyes. The Act has prescribed some procedures for conducting the search which should be scrupulously followed by the authorities and if

the authorities are not followed the procedures, then the appellate authority like the Tribunal can interfere in the said action in order to render substantial justice.

30. In view of the above said reasons, we have no hesitation to set aside the orders of the AO as well as the Ld.CIT(A).

31. We have allowed the appeals by considering the legal grounds raised by the assessee i.e. whether the search conducted in the premises of the assessee is a valid one or not, whether notices issued u/s. 153C in respect of the A.Ys. 2012-13 to 2017-18 are valid or not and the statement recorded u/s. 131 on 31.10.2017 by the DDIT(Inv), Bengaluru after the inspection was over is correct or not. Therefore we are not adjudicating the other grounds raised by the assessee on merits.

32. In the result, all the appeals filed by the assessee are allowed.

Order pronounced in the open court on 15th July, 2025.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 15th July, 2025.
/MS/

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore