

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.300/Del/2023
Assessment Year: 2016-17

Sh. Sandeep Kumar Agarwal, 1135, Chatta Madan Gopal, Maliwara, Chandni Chowk, New Delhi	Vs.	DCIT, Central Circle-7, New Delhi
PAN: AGTPA3365R		
(Appellant)		(Respondent)

Assessee by	Sh. Manju Goel, CA
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	07.07.2025
Date of pronouncement	07.07.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2016-17, arises against the Commissioner of Income Tax (Appeals)-24 [in short, the "CIT(A)"], Delhi's order dated 14.12.2022 passed in case no. CIT(A), Delhi-24/10751/2015-16, involving proceedings under section 153C r.w.s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. This assessee's appeal raises the following substantive grounds:

“1. That in view of the facts and circumstances of the case, the Ld. CIT (A) has erred by confirming the addition of Rs. 55, 27,460/- without appreciating the facts of the case, provisions of law and submissions of appellant the order of Ld. CIT (A) is bad in law and against the principles of natural justice, the addition deserves to be deleted.

2. That the Id. CIT (A) has erred by completely ignoring our submissions, grounds of appeal and case laws cited by the assessee as

- a. That the notice u/s 153C has been issued long after the completion of search. The case law referred is CIT Vs Bharat Bhushan Jain 2015 Delhi High Court.*
- b. That the first notice u/s 153C dated 31.03.2021 was issued on 01.04.2021 is invalid and void ab initio as it is time barred.*
- c. That the Assessing Officer has not provided the reasons and satisfaction note for issuing notice u/s 153C and no approval from JCIT/Addl CIT has been taken.*
- d. That the Assessing officer has erred by not allowing an opportunity to the assessee to cross Kushagr Jindal who has been searched even on the specific request of the assessee during the assessment proceedings.*
- e. That the Assessing officer has erred by neither considering nor rejecting the affidavit filed during the assessment proceedings.*

3. That the Id. CIT (A) has erred by ignoring the ground that the show cause notice dated 24/12/2021 was issued fixing the case for 27/12/2021, 25 and 26th December 2021, being holidays, hence practically no opportunity was provided to comply whereas minimum seven days' time is to be given as per law.

4. That the Id. CIT (A) has erred by ignoring the ground that the last notice u/s 143(2) of the Income Tax Act, 1961 dated 27/12/2021 (uploaded on the e filing site on 30/12/2021) fixing the case for 28/12/2021 signed on 29/12/2021 at 15.56 noon is bad in law.

5. In view of the facts and circumstances of the case the appellant prays that the additions may kindly be deleted or any other order which this hon'ble court deems fit and proper be passed.

6. That the appellant craves leave to add, modify or delete any of the above grounds of appeal or at any time of hearing of the appeal.”

3. Learned counsel at the outset raises the assessee's substantive ground no. 2(a) and (b) that the impugned section 153C assessment framed herein after issuance of the Assessing Officer's notice dated 19th March, 2021 being unsustainable in law since time barred going by CIT Vs Bharat Bhushan Jain (2015) 370 ITR 695 (Del).

4. It is in this factual backdrop that we now come to the basic relevant admitted facts. The department herein appears to have carried out the search in question in M/s. Jindal Bullion Ltd. (JBL) Group on 05.01.2017 wherein it has found/seized the corresponding incriminating materials including that pertaining to the assessee having code name "Sandeep (1118)". All this led to initiation of section 153C proceedings against him after recording of the corresponding satisfaction by the concerned Assessing Officer on 19th March, 2021. The Assessing Officer thereafter added an amount of Rs.55,27,460/- representing bogus unexplained credits in his "*hazir johr*" account which stands upheld in the lower appellate discussion.

5. Learned counsel's case in this factual backdrop is that a given fact that the learned departmental authorities had completed section 153A r.w.s 143(3) assessment in case of a searched party and related concerns of M/s. JBL as per section 153C satisfaction note at page 23 of the case file, there is admittedly an undue delay in issuing section 153C notice to him which has to be held as *none est* in the eyes of law going by their lordship's above decision (supra).

6. The Revenue on the other hand has strongly supported both the learned lower authorities' action invoking section 153C proceedings against the assessee. We have given our thoughtful consideration to the assessee's and Revenue's above respective vehement submissions. We make it clear first of all that the question as to, at what stage section 153C satisfaction has to be recorded, is no more *res integra* as per hon'ble apex court's landmark decision in CIT Vs. Calcutta Knitwears, (2014) 362 ITR 673 (SC) that there are three stages as under:

"In the result, we hold that the purpose of section 158BD of the Act a satisfaction note is sine qua non and must be prepared by the Assessing Officer before he transmits the records to the other Assessing Officer who has jurisdiction over such other person. The satisfaction note could be prepared at either of the following stages: (a) at the time of or along with the initiation of proceedings against the searched person under section 158BC of the Act; (b) along with the

assessment proceedings under section 158BC of the Act; and (c) immediately after the assessment proceedings are completed under section 158BC of the Act of the searched person.

7. There could be further no dispute between the parties that true to its ethos, the Central Board of Direct Taxes (CBDT) also issued its circular no. 10 of 2012 dated 31st December, 2012 reported as (2013) 350 ITR (statute 31 to 32), as under:

“Section 132, read with section 132A of the income-tax Act, 1961 - search & seizure - Assessment of preceding years in search cases during election period

***CIRCULAR NO. 10/2012 [F. NO. 282/22/2012-IT (INV. V)],
DATED 31-12-2012***

As per provisions contained in section 153A and 153C of the Income Tax Act, 1961, the Assessing Officer is required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made.

2. In consequence of the powers conferred by clauses (64) and (66) of the Finance Act, 2012 the Central Government amended the Income Tax Rules, 1962, to insert a new Rule 112F after the existing Rule 112E, specifying the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made.

3. The aforesaid amendment was introduced with a view to reduce infructuous and unnecessary proceedings under the Income Tax Act, 1961 in cases where a search is conducted u/s 132 or requisition made u/s 132A and cash or other assets are seized during the election period, generally on a single warrant, and no evidence is available, or investigation required, for any assessment year other than the assessment year relevant to the previous year in which search is conducted or requisition is made.

4. In such cases, the officer investigating the case, with the approval of the Director General of Income Tax, shall certify that -

(i) the search is conducted under section 132 or the requisition is made under section 132A of the Act in the territorial area of an assembly or parliamentary constituency in respect of which a notification has been issued under section 30, read with section 56 of the Representation of the People Act, 1951; or

(ii) the assets seized or requisitioned are connected in any manner to the ongoing election process in an assembly or parliamentary constituency; and

(iii) no evidence is available or investigation is required for any assessment year other than the assessment year relevant to the previous year in which search is conducted or requisition is made.

5. The certificate of the investigating officer shall be communicated to the Commissioner of Income Tax and the Assessing Officer having jurisdiction over the case of such person.”

8. It is thus clear that the issue now stands settled that the learned departmental authorities could indeed initiate such a section 153C proceedings at three stages (supra). We now revert back to the assessee's sole substantive contention that given the fact that section 153A assessment in the searched party's case(s) stood completed in the month of December, 2019, section 153C proceedings in his case are time barred; and, therefore, liable to be quashed since involving an inordinate delay of more than a year. We do not see any merit in the assessee's argument herein as the Revenue's case is found to be covered under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act 2020, ("TOLA"), which included the time period during the period from 20th March, 2020 to 31st December, 2020 as per section 3(1)(a) thereof. This being the clinching factual position, we hereby conclude that the learned Assessing Officer's section 153C notice issued to the assessee on 31st March, 2021 is not time barred one

so as to render the consequential assessment herein as *non-est* in the eyes of law. Ordered accordingly.

No other ground or argument has been pressed before us.

9. This assessee's appeal is dismissed.

Order pronounced in the open court on 7th July, 2025

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 7th July, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi