

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एव श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 792 to 795/JPR/2025  
निर्धारण वर्ष/Assessment Year : 2013-14 to 2016-17

Joint Commissioner of Income Tax, Central Circle-4, Jaipur.	ब्लाम Vs.	Usha Golcha C-83, Sohan Sadan, C-Scheme, Prathvi Raj Road, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ABUPG9705D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 796 to 802/JPR/2025  
निर्धारण वर्ष/Assessment Year : 2011-12 to 2016-17

Joint Commissioner of Income Tax , Central Circle-4, Jaipur.	ब्लाम Vs.	Surendra Kumar Golcha C-83, Sohan Sadan, C-Scheme PrathviRaj Road, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AEUPG7982H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 803 to 805 & 956/JPR/2025  
निर्धारण वर्ष/Assessment Year : 2013-14 & 2016-17

Joint Commissioner of Income Tax , Central Circle-4, Jaipur.	ब्लाम Vs.	Abhimanyu Golcha B-40, Golcha Square, Sardar Patel Marg, C- Scheme, Jaipur. Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAPPG4697L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. A.B. Dangayach, C.A.  
राजस्व की ओर से / Revenue by: Mrs. Anita Rinesh, JCIT, Sr. DR

सुनवाई की तारीख / Date of Hearing : 07/08/2025  
उदघोषणा की तारीख / Date of Pronouncement: 11/08/2025

आदेश / ORDER

Per Bench:

This common order is to dispose of the above captioned 15 appeals filed by the department, as common issue as to the maintainability of these appeals is involved, and same arguments have been advanced.

2. Department-appellant has challenged orders, passed by Learned CIT(A), u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), whereby 14 appeals filed by the above named assesses-respondents, relating to the above captioned respective assessment year(s) have been allowed, and the assessment orders, have been set aside, while observing that notices u/s 148 of the Act, issued to the assessee were not maintainable legally, in view of decision by the Hon’ble High Court in **Shyam Sunder Khandelwal vs. Assistant Commissioner of Income Tax**, (2024) 161 taxmann.com 255 (Rajasthan), D.B. Civil Writ Petition No. 18363/2019; and, furthermore, 1 other appeal filed by Surendra Kumar Golcha, assessee, challenging the penalty order passed

under section 271(1)(c) of the Act has also been allowed while setting aside the penalty order.

**Condonation of delay in filing of 14 appeals-** ITA No. 792 to 805/JPR/2025.

3. With these 14 appeals, department has filed separate applications, seeking condonation of delay.

Ground for condonation of delay is that copy of the impugned order(s) passed by the Learned CIT(A) was received at the office of Learned PCIT, whereupon CSR with recommendation of appeal was sent to the office of Learned PCIT; thereupon authorization was received but still appeals could not be filed within the prescribed period of limitation, due to non availability of old assessment records.

4. Admittedly, the appeals were to be presented within 60 days from the date on which copy of the impugned order(s), passed by Learned CIT(A) was received in the office of Learned PCIT, Jaipur.

As claimed by the department, copy of the impugned order(s), passed by Learned CIT(A) was received in the office of Learned PCIT, Jaipur on 07.01.2025 .

There is no dispute about the dispatch of CSR with recommendation for filing of the appeals on 21.03.2025, and also that authorization for filing

of the appeal was received on 24.03.2025. Keeping in view the number of the impugned orders and the issue involved, it appears that processing must have taken time to prepare CSR with recommendation for filing of appeals.

5. As regards averment by the department regarding non availability of old assessment record, the applicant should have specified as to which record was not available.

6. Be that as it may, some of the 14 appeals, came to be filed on 19.05.2025, whereas others were filed on 20.05.2025. When the authorization for filing of appeals were received from the office of Learned PCIT, Jaipur, on 24.03.2025, department required, and it must have taken, time for drafting/preparation of appeals.

In the given situation, we deem it a fit case to admit the appeals, We order accordingly.

**On the issue of maintainability of the 15 appeals-in the face of notice(s) under section 153C of the Act**

7. Ld. DR for the department has stated at the Bar about issuance of notice(s) u/s 153C r.w.s. 153CA of the Act by the department to the assesses named above, even before filing of these appeals.

8. In the course of arguments, Ld. DR for the department has submitted that the notice(s) u/s 153C of the Act came to be issued to the assessee(s) in compliance with the decision by the Hon'ble High Court in **Shyam Sunder Khandelwal** case (supra).

As regards filing of these appeals, Learned DR has tried to justify their filing while submitting that present appeals came to be filed as notice(s) u/s 148 of the Act were correctly and legally issued to the assesses on the basis of "information received", and provisions of section 153C were not applicable to said cases.

9. Relevant portion of the decisions by Learned CIT(A), is reproduced hereunder:-

“4.2.9 Considering the facts of the present case, it is noticed that the case of the appellant was also reopened u/s 148 of the I.T. Act, 1961 by the Id. AO on the basis of information of advancing of unaccounted cash loans by the appellant through the broker Sh. Ramesh Chand Maheshwari and on the basis of seized material during the course of search proceedings in the Ramesh Manihar Group.

4.2.10 In the light of the above decision, as the facts of the present case are similar, hence the above judgement of Hon'ble High Court is squarely applicable in the present case of the appellant.

4.2.11 Accordingly, the order passed by the AO u/s 147 of the I.T. Act, 1961 has become ineffective as on date as the Hon'ble High Court Rajasthan has quashed the notice u/s 148 of the I.T. Act, 1961 and impugned orders in the cases which were re-opened on the basis of seized material during the course of search proceedings in the Ramesh Manihar Group.

4.2.12 In these circumstances, the assessment order u/s 147 of the I.T. Act, 1961 under challenge in present appeal does not survive, the assessment order

passed by the AO has become infructuous, Hence the ground of appeal challenging the legality of notice issued u/s 148 of the Act is hereby allowed.”

10. Yesterday, in ITA No. 832/JPR/2025, relating to the assessment year 2012-13 titled as **JCIT (OSD) vs. Manoj Bahl**, copy of order dated 17.7.2025 passed by Hon’ble Apex Court in SLP(CIVIL) Diary No.24444/2025, titled as **Assistant Commissioner of Income Tax, Central Circle, 4, Jaipur v. Pramod Jain**, one of the bunch petitions decided by Hon’ble High Court i.e. while delivering decision in Shyam Sunder Khandelwal’s case, was brought to our notice, on behalf of the assessee, to submit that the SLP filed by the department against said decision stands dismissed while observing that there was no good reason to interfere with the common impugned order passed by the High Court.

It is true that while deciding the abovesaid SLP, Hon’ble Apex Court has clearly observed in para 4 of the order that the question of law is kept open. In other words, the question of law stated to be involved has been kept open, to be decided by the Hon’ble Apex Court in some other matter.

The impugned order(s) have been passed by applying the decision by our Hon’ble High Court in **Shyam Sunder Khandelwal** case, and recording the finding that in the given facts and circumstances, notice(s) under section 148 of the Act were legally not sustainable.

But, in the given situation, when notice(s) u/s 153C of the Act, came to be issued by the department to these assesses, after passing of the impugned order(s) Learned CIT(A), and before filing of these appeals, department can safely be said to have accepted the impugned order(s), passed by Learned CIT(A) and in case of ITA No. 956/JPR/2025 even before disposal of appeal by Learned CIT(A).

### **Conclusion**

As a result, we are of the considered opinion that having issued notice(s) u/s 153C of the Act, on the facts and material already within the know of the department, in terms of the impugned orders passed by Ld. CIT(A), which are based on decision by our own Hon'ble High Court in Shyam Sunder Khandelwal's case, present appeals, which came to be presented subsequently i.e. after the issuance of the notice(s) under section 153 C, are not maintainable.

### **Result (in 14 appeals)**

In view of the above findings, all these appeals filed by the department are hereby dismissed, being not maintainable.

### **ITA No.799/JPR/25**

11. This appeal pertains to penalty order set aside by Learned CIT(A) on the ground that the assessment order was separately set aside for the

abovesaid reason. Once, the assessment order came to be set aside, Learned CIT(A) was justified in setting aside the penalty order as well.

As a result, this appeal is hereby also dismissed.

Files be consigned to the record room after the needful is done by the office.

Copy of the common order be placed in each connected file hereby disposed of.

Order pronounced in the open court on 11/08/2025.

Sd/-

Sd/-

(राठौड़ कमलेश जयन्तभाई )  
(RATHOD KAMLESH JAYANTBHAI)  
लेखा सदस्य / Accountant Member  
जयपुर / Jaipur

(नरेन्द्र कुमार)  
(NARINDER KUMAR)  
न्यायिक सदस्य / Judicial Member

दिनांक / Dated:- 11/08/2025

\*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- JCIT, Central Circle-4, Jaipur.
2. प्रत्यर्थी / The Respondent- Usha Golcha, Jaipur,  
Surendra Kumar Golcha, jaipur,  
Abhimanyu Golcha, Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 792 to 805 & 956/JPR/2025)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar