

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**

**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं. / ITA No: 160/RPR/2025**

(निर्धारण वर्ष Assessment Year: 2015-16)

Musaddilal Mansaram Infrastructure Pvt. Ltd., Shop No. 412, 3 <sup>rd</sup> Floor, Landmark Complex, Karbala Road, Bilaspur- 495001, C.G.	v s	The Income Tax Officer, Ward-1(1), Bilaspur- 495001, C.G.
<b>PAN: AAJCM0169Q</b>		

**आयकर अपील सं. / ITA No: 153/RPR/2025**

The Income Tax Officer, Ward-1(1), Bilaspur- 495001, C.G.		Musaddilal Mansaram Infrastructure Pvt. Ltd., Shop No. 412, 3 <sup>rd</sup> Floor, Landmark Complex, Karbala Road, Bilaspur- 495001, C.G.
<b>PAN: AAJCM0169Q</b>		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Veekaas S Sharma, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	07.08.2025
घोषणा की तारीख / Date of Pronouncement	:	18.09.2025

**आदेश / ORDER**

**Per Bench:**

The captioned cross appeals are filed by the assessee and the revenue, emanated from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short "Ld. CIT(A)"] dated 02.01.2025 for the A Y 2015-16, which in turn arises from the order of Assessing Officer, NFAC, Delhi u/s 147 r.w.s. 144B of the Act dated 17.03.2022.

2. The grounds of appeal raised by the assessee and the revenue reads as under:

**ITA No. 160/RPR/2025 (Assessee)**

1. *The assessment order is bad-in-law as no valid return was filed in response to the notice u/s 148, making the subsequent notice u/s 143(2) invalid, thus, completion of assessment u/s 143(3) r.w.s. 147 and 144B without a valid return and notice IS void. Consequently, the entire assessment deserve to be quashed.*
2. *The assessment completed u/s 147 r.w.s. 144B is illegal and void-ab-initio, as it was initiated based on search-related information obtained from a third party, attracting Section 153C and not Section 147., since Section 153C excludes the applicability of Section 147 in such cases, the entire proceedings are without jurisdiction and liable to be quashed.*
3. *The assessment proceedings initiated via notice u/s 148 dated 31.03.2021 but issued only on 01.04.2021 is barred by limitation under the amended Section 149(1)(a), as the alleged escaped income is only Rs. 30,00,000 which is below the threshold of Rs. 50,00,000. The limitation us/ 149(1)(a) is expired on 31.03.2019, rendering the proceedings illegal and void-ab-initio. Hence, the reassessment and consequential income enhancement deserve to be quashed.*
4. *The reassessment order is illegal and barred by limitation, as the alleged escaped income is below Rs. 50,00,000 and proceedings were initiated beyond three years from the end of the relevant assessment year. As per amended Section 149 of the Income Tax Act, 1961, such action is time-barred. It is therefore prayed that the reassessment proceedings be quashed.*
5. *The assessment proceedings initiated via notice u/s 148 dated 31.03.2021 (issued on 01.04.2021) is illegal, as no prior approval was obtained u/s 151 from the appropriate authority, violating the amended provisions and the Hon'ble Supreme Court's ruling. Accordingly, the proceedings and the Rs. 65,08,900 enhancement upheld by the CIT(A) deserve to be quashed.*
6. *The assessment completed u/s 147 r.w.s. 144B is bad-in-law as the jurisdiction was assumed without application of mind and based on borrowed satisfaction, no independent inquiry was conducted by the Ld. AO, as evident from the "reasons to believe," which lack any reference to investigation. The proceedings were*

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*initiated on incorrect and non-existing facts, rendering the assessment illegal and liable to be quashed.*

- 7. The notice issued u/s 148 is illegal, as it is based on non-existing and factually incorrect information, specifically, the erroneous presumption that the assessee received a loan of Rs. 2,06,35,782/-, since the assessment was initiated on incorrect facts, the proceedings u/s 147 deserve to be quashed.*
- 8. The Ld. AO erred in substituting the actual sale consideration of Rs. 52,12,500 with the stamp duty value of Rs. 1,17,21,400 by invoking Section 69, and the CIT(A) wrongly confirmed it under Section 56(2)(vii)(b), without considering the mandate of Section 50C(2), which requires referral to the DVO for fair market value determination. As this statutory procedure was ignored, the addition of Rs. 65,08,900 is unjustified and deserves to be deleted.*
- 9. The Ld. AO erred in making an addition of Rs.75,92,450 u/s 69 for alleged unexplained investments, and the CIT(A) wrongly confirmed Rs. 65,08,900 u/s 56(2)(vii)(b), ignoring the fact that the lands were held as stock-in-trade and not as capital assets. As such, they fall outside the definition of "property" under clause (d) of the Explanation to Section 56(2)(vii), making the addition arbitrary, illegal, and unjustified. It is prayed that the addition of Rs. 65,08,900 be deleted.*

**ITA No. 153/RPR/2025 (Revenue)**

- 1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 2,70,04,658/- made under section 68 of the Income Tax Act, 1961 by the Assessing Officer, despite the fact that during the course of search proceedings, Shri Suresh Kumar Agrawal, Director of Rashi Steel and Power Ltd., admitted that he had arranged accommodation entries through shell/paper/jamakarchi companies and provided a list of 31 such companies, which also included the three companies from which the assessee had shown unsecured loans, thereby substantiating the non-genuine nature of the transactions?*
- 2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 6,75,116/- made under section 69C of the Act on account of unaccounted commission expenses incurred for obtaining unsecured loan entries, by merely holding that since the loan was treated as genuine, no commission expenditure could have been incurred, without considering the circumstantial evidence and industry practice?*

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3. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 20,96,406/- made under section 69C of the Act on account of unexplained expenditure incurred towards stamp duty and registration charges for the purchase of six immovable properties, solely relying on the sale deed stating that the seller bore these expenses, without verifying the actual source of funds and corroborative evidence?*
4. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 10,83,550/- out of the total addition of Rs. 75,92,450/- made under section 69 of the Act on account of the difference between the stamp duty value of the properties and the documented purchase price as per section 50C of the Act, by applying a 10% tolerance limit retrospectively, and further erred in holding that the correct provision applicable was section 56(2)(vii)(b) of the Act instead of section 69, despite the fact that section 56(2)(vii)(b) is applicable only to individuals and Hindu Undivided Families (HUFs) for Assessment Year 2015-16 and not to companies, which is the assessee in the present case?*
5. *Any other ground which may be adduced at the time of hearing*

**3.** Since the facts of both the appeals are common, interconnected and interwoven, therefore, are taken up together for hearing / adjudication and disposed of under this common order.

**4.** At the outset, it is brought to our notice that the Ld. AR on behalf of the assessee has raised a legal ground in its appeal challenging the validity of assessment completed u/s 147 r.w.s. 144B of the Act, alleging that the same was initiated based on search related information obtained from third party, attracting section 153C and not section 147, since section 153C

excludes the applicability of section 147 in such cases. Accordingly, the entire proceedings are without jurisdiction and liable to be quashed.

**5.** As agreed by both the parties, the aforesaid legal issue has been taken up first for adjudication. On the issue, Ld. AR representing the assessee has submitted a written synopsis dated 07.08.2024 elaborating the mandate of law and jurisprudence explaining the applicability of section 153C instead of section 147 in the present matter. For the sake of interpretation and to check the applicability of correct section, the written submission furnished is culled out hereunder:

**BEFORE THE HON'BLE INCOME TAX APPELLATE**  
**TRIBUNAL, RAIPUR BENCH, RAIPUR (C.G.)**

**ADDITIONAL SYNOPSIS OF THE CASE**

Appellant	:	<b>Musaddilal Mansaram Infrastructure Private Limited</b>
Respondent	:	The Income Tax Officer, Ward – 1(1), Bilaspur
ITA No.	:	<b>160/RPR/2025</b>
A.Y.	:	<b>2015-16</b>
Fixed on	:	07.08.2025

1. It is respectfully submitted that in furtherance to the synopsis submitted earlier, the following additional submissions are respectfully placed before your honor for kind and judicious consideration. These points are intended to supplement the earlier contentions and provide further clarity and support to the assessee's case:

2. **Further submission in support of Ground No. 2:**

2.1 **Proceedings ought to have been initiated u/s 153C of the Income Tax Act, 1961:**

It is respectfully submitted that the "reason to believe" recorded for initiating the present reassessment proceedings u/s 147, r.w.s. 143(3) of the Income Tax Act, 1961, clearly reveals that the said proceedings were based solely on material and information unearthed during a search conducted u/s 132 at the premises of a third party namely Shri Suresh Kumar Agrawal. In such cases, where documents or evidence relating to the assessee are found during a search on a person other than the assessee, the statutory mechanism prescribed u/s 153C is mandatorily attracted. Section 153C, being a specific provision, overrides the general reassessment powers u/s 147, and once the conditions stipulated under Section 153C are satisfied, the Learned Assessing Officer is duty-bound to proceed only under that

section. This position has been emphatically upheld by the **Hon'ble Rajasthan High Court** in the case of **Shyam Sundar Khandelwal & Others v. ACIT & Others** reported in [2024] 471 ITR 45 (Raj) dated 19.03.2024, wherein it was held that initiation of reassessment proceedings u/s 147, in circumstances where Section 153C is applicable, is without jurisdiction and legally untenable, text of para 30, 32 and 38 to 41 of the judgment cited supra is as under:

*“30. The argument that by enactment of Section 153A to 153D has not eclipsed Section 148 does not enhance the case of respondent to initiate the proceedings under Section 148. On fulfillment of two conditions for invoking Section 153C the proceeding in accordance with Section 153A are to be initiated. The operating field of and Section 153A to 153D and Section 148 are different. Applicability of Section 153C in cases where the seized material related to or belonged to person other than on whom search is conducted or requisition made does not render Section 148 otiose. Section 148 shall continue to apply to the regular proceedings and also in cases where no incriminating material is seized during the search or requisition.*

*32. The argument that Section 153C can be invoked in case there is incriminating material for all the relevant preceding years and otherwise Section 148 is to be resorted to, is misplaced. On satisfaction of the twin condition for proceedings under Section 153C, the AO has to proceed in accordance with Section 153A. Notice is to be issued for filing of the returns for relevant preceding years and thereupon proceed to assessee or reassess the 'total income'. It is not obligatory on the AO to make assessment for all the years, the earlier orders passed may be accepted. **But once there is incriminating material seized or requisitioned belonging or relatable to the person other than on whom search was conducted, Section 153C is to be resorted to.***

*38. The petitioner relied upon the decision of the Karnataka High Court in the case of Sri Dinakara Suvarna(supra). It would be relevant to quote Para-10:-*

***10. Admittedly no proceedings were initiated under Section 153C of the Act. Thus, there is patent non-application of mind. It is relevant to note that the author of the diary Smt. Soumya Shetty had passed away prior to the date of search. It was argued on behalf of the***

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*Revenue that Shri. Ashok Kumar Chowta had offered tax on lump-sum income.*

*39. Further reliance was placed upon the decision of the Bombay High Court in the case of M/s. Aditi Constructions (supra). The para-9 is quoted:-*

*“9. We find that the jurisdictional conditions for invoking section 147 – 148 are not satisfied as there is no failure to disclose material facts fully and truly. It is not in dispute that by the letter dated 11th September 2015 (Exhibit H) the Petitioner have submitted all the particulars along with supporting documents to the Respondent No.1. Hence the reasons to believe and a presumption based on the statement of Shri Bhanwarlal Jain (a third party) in the course of a search, that the loans of the entities were bogus or accommodation entries was clearly dispelled. Moreover, the specific provisions of S.153C would prevail over the general provisions of section 147 in the case of search on 3rd party.”*

*40. In view of above discussion the notices issued under Section 148 and the impugned orders are quashed. However, the respondents shall be at liberty to proceed against the petitioners in accordance with law.*

*41. The first ground of challenge to initiation of proceedings under Section 148 is being accepted and there is no need to dilate upon other grounds raised for challenging the notice issued under Section 148 of the Act.”*

It is respectfully submitted that the aforesaid decision of the Hon’ble Rajasthan high Court has been upheld by the Hon’ble Supreme Court of India by way of dismissal of SLP filed by the Revenue both on the ground of limitation and on merit, copy of the full text of the decision of the Hon’ble Supreme Court of India and the Hon’ble High Court of Rajasthan along with the judicial pronouncements wherein the similar view has been taken is placed on the Legal Paper Book as per the details tabulated herein below:

S. NO	TITLE	CITATION	AUTHORITY	PAGE NO. of LPB - 2
<b>Argument: Non-adherence to the provisions of Section 153C vitiates the entire assessment proceedings.</b>				
1.	ACIT, Central Circle 4 Jaipur Vs. Pramod Jain	2025 (7) TMI 1315	Hon’ble Supreme Court of India	1 – 3
2.	Shyam Sunder Khandelwal and Others Vs. ACIT, Central Circle 2	2024 (4) TMI 196	Hon’ble High Court of Rajasthan	4 – 13

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*ITO, Ward-1(1), Bilaspur vs Musaddilal Mansaram Infrastruture Pvt. Ltd.*

3.	Income Tax Officer Vs. <b>Vikram Sujitkumar Bhatia</b>	2023 (4) TMI 296; [2023] 453 ITR 417 (SC)	Hon'ble <b>Supreme Court of India</b>	<b>14 -37</b>
4.	<b>Sejal Jewellery &amp; Anr.</b> vs. Union of India & Ors.	2025 (2) TMI 870	Hon'ble <b>High Court of Bombay</b>	<b>38 – 56</b>
5.	<b>Tirupati Construction Company</b> Vs. ITO	2024 (5) TMI 1170; [2024] 465 ITR 611 (Raj)	Hon'ble <b>High Court of Rajasthan</b>	<b>57 - 63</b>
6.	The PCIT Vs. M/s. <b>VSL Mining Company Pvt. Ltd.</b>	2024 (9) TMI 1383;	Hon'ble <b>High Court of Karnataka</b>	<b>64 - 71</b>
<b>S. NO</b>	<b>TITLE</b>	<b>CITATION</b>	<b>AUTHORITY</b>	<b>PAGE NO. of LPB - 1</b>
7.	DCIT vs. <b>Sri Dinkara Suvarna</b>	[2023] 454 ITR 27 (SC)	Hon'ble <b>Supreme Court of India</b>	<b>122 to 123</b>
8.	<b>Sri Dinkara Suvarna</b> vs. DCIT	[2023] 454 ITR 21 (Kar)	Hon'ble <b>High Court of Karnataka</b>	<b>124 to 128</b>
9.	PCIT vs. M/s. <b>VSL Mining Company Pvt. Ltd.</b>	I. T. A. No. 32 OF 2020	Hon'ble <b>High Court of Karnataka</b>	<b>139 to 145</b>
10.	<b>G. Koteswara Rao</b> vs. DCIT	2015 (12) TMI 1280	Hon'ble <b>ITAT Vishakhapatnam Bench</b>	<b>146 to 158</b>
11.	<b>Kalyanji Velji HUF</b> vs. DCIT	2021 (1) TMI 322	Hon'ble <b>ITAT Mumbai Bench</b>	<b>159 to 170</b>

**Prayer:**

In view of the aforesaid submission and judicial pronouncements relied upon, since the reassessment proceedings were initiated on the basis of material and information gathered during the course of search operation u/s 132 in the case of third party which ought to have been completed u/s 153C, therefore, the reassessment proceedings completed u/s 147 is bad in law and liable to be quashed as the same is invalid and void-ab-initio.

For, **Musaddilal Mansaram Infrastructure Pvt. Ltd.**

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**(CA VEEKAAS S SHARMA)**  
 Counsel for the Appellant

6. Ld. AR after reiterating his argument as furnished in the aforesaid written submission have submitted that the issue is squarely covered in terms of the judgment of **Hon'ble Rajasthan High Court** in the case of **Shyam Sunder Khandelwal & Others vs. ACIT & Other reported in (2024) 471 ITR 45 (Raj) dated 19.03.2024**. Ld. AR further explained that the facts and observations in the said case are evenly applicable in the present matter and, therefore, the case of assessee ought to have been assessed under the provisions of section 153C and not u/s 147 of the Act. To substantiate such contentions, Ld. AR drew our attention to the text of judgment in the case of **Shyam Sunder Khandelwal (supra)** (copy furnished in the paper book). **To support the findings of Hon'ble Rajasthan High Court**, Ld. AR brought to our knowledge that subsequently the aforesaid judgment has been approved by the **Hon'ble Supreme Court** vide order **dated 17.07.2025** in **SLP (Civil) Diary No. 2444/2025** and **SLP (Civil) Diary No. 32662/2025** with the observation that “2. *Even otherwise, we find no good reasons to interfere with the common impugned order passed by the High Court and 3. The Special Leave Petition are, accordingly, dismissed on the ground of delay as well as on merits.*” For the sake of clarity, the relevant findings by the **Hon'ble Rajasthan High Court** in the aforesaid case are extracted as under:

23. *The reasons supplied in case in hand for initiation of proceedings under Section 147/148 are based on the incriminating material and documents including Pen Drives seized during the search carried out of the Manihar Group and the statements recorded during proceedings. From the information received the AO noticed that the loan advanced and interest earned thereon were unaccounted. In other words the basis for initiation of Section 148 proceedings is the material seized relating to or belonging to the petitioner, during the search conducted of Manihar Group.*

24. *In the case where search or requisition is made, the AO under Section 153A mandatorily is required to issue notices to the assessee for filing of income tax return for the relevant preceding years. The AO assumes jurisdiction to assess/reassess 'total income' by passing separate order for each assessment.*

25. *In cases of the person other than on whom search was conducted but material belonging or relating such person was seized or requisition, the AO has to proceed under Section 153C. The two pre-requisites are that the AO dealing with the assessee on whom search was conducted or requisition made, being satisfied that seized material belongs or relates to other assessee shall hand over it to AO having jurisdiction of such assessee. Thereafter, the satisfaction of AO receiving the seized material that the material handed over has a bearing for determination of total income of such other person for the relevant preceding years. On fulfillment of twin conditions the AO shall proceed in accordance with the provisions of Section 153A.*

26. *Special procedure is prescribed under Section 153A to 1530 for assessment in cases of search and requisition. There cannot be a quibble with the proposition that the special provision shall prevail over the general provision. To say it differently the provisions of Section 153A to 1530 have prevalence over the regular provisions for assessment or reassessment under Section 143 & 147/148.*

27. *Section 153A and 153C starts with non-obstante clause. The procedure for assessment/reassessment in Section 153A, 153C in cases of search or requisition has an overriding effect to the regular provisions for assessment or reassessment under Sections 139, 147, 148, 149, 151 & 153.*

28. *The language of explanation 2 to new Section 148 is akin to Section 153A and Section 153C. Corollary being that after seizing of operational period of Section 153A to 153D, the cases being dealt thereunder were circumscribed in the scope of newly substituted Section 148.*

29. *The Department has not set up a case that for initiating proceedings under Section 148 it had material other than the material seized during the search of Manihar Group. The contention was that though the material with regard to unaccounted loan advanced by the petitioner was received, the earning of interest on unaccounted loan was derivation of the AO from the material received. The submission is that the derived conclusion cannot be acted upon under Section 153C. The submission lacks merit and shall defeat the concept of single assessment order for each of relevant preceding years for assessing 'total income' in case of incriminating material found during search or requisition.*

30. *The argument that by enactment of Section 148 has not eclipsed Section 148 does not enhance the case of respondent to initiate the proceeding under Section 148. On fulfillment of two conditions for invoking Section 153C the proceeding in accordance with Section 153A are to be initiated. The operating field of and Section 153A to 153D and Section 148 are different. Applicability of Section 153C in cases where the seized material related to or belonged to person other than on whom search is conducted or requisition made does not render Section 148 otiose. Section 148 shall continue to apply to the regular proceedings and also in cases where no incriminating material is seized during the search or requisition.*

*31. The other aspect of the matter is that under Section 153A and 153C, 'the total income' is to be assessed. The total income includes returned income (if any), undisclosed income unearthed during the search or requisitioning and information possessed from the other sources.*

*For Illustration:- An assessee had returned income of Rs.100, undisclosed income of Rs.200 is unearthed during search and there is information from annual information statement of non-disclosure of income of Rs.150/-.*

*The AO under Section 153A and 153C shall pass order dealing with income of Rs.100+Rs.200+Rs.150, the total income being Rs.450/-. In cases where there is no unearthing of undisclosed income of Rs.200/-, the department can resort to proceeding under Section 147/148.*

*32. The argument that Section 153C can be invoked in case there is incriminating material for all the relevant preceding years and otherwise Section 148 is to be resorted to, is misplaced. On satisfaction of the twin condition for proceedings under Section 153C, the AO has to proceed in accordance with Section 153A. Notice is to be issued for filing of the returns for relevant preceding years and thereupon proceed to assessee r reassesse the 'total income'. It is not obligatory on the AO to make assessment for all the years, the earlier orders passed may be accepted. But once there is incriminating material seized or requisitioned belonging or relatable to the person other than on whom search was conducted, Section 153C is to be resorted to.*

*33. Before concluding, it would be fair to deal with the case law cited by both the parties.*

*34. Reliance of respondents on decision of M/s. M.R. Shah Logistics Pvt. Limited (supra) is of no avail. The issue of interplay of provisions of Section 147/148 vis-a-vis Section 153C in the case of seized material relating or belonging to the person other*

*than on whom the search was conducted or requisition made was not the issue before the Supreme Court.*

*35. The Supreme Court in the case of Abhisar Buildwell P. Ltd. (supra) while dealing with the provisions of Section 153A held that in case of absence of incriminating material seized during the search, the department is not remediless for reassessing the unabated assessment on the basis of material received from the other sources and can proceed under section 148. The decision does not support the contentions raised that Section 148 is rendered redundant if Section 153C is to be resorted to in the facts of the present case.*

*36. The Single Bench of this Court in the case of Vijay Kumar Mehta (supra) held that if the Department has al chosen not to proceed under Section 153C, no right is created to the petitioner for getting the notice under Section 148 quashed. Moreover, learned Single Judge was not having the benefit of the decision of the Supreme Court in the case of Abhisar Buildwell P. Ltd. (supra). The appeal against the order was dismissed d having rendered infructuous in view of the subsequent developments that the assessment order was passed.*

*37. The decision of the Madras High Court in the case of Saloni Prakash Kumar (supra) is of no help to the respondents. The High Court held that Section 153C does not preclude issuance of notice under Section 148. The field of applicability of two sections was not the issue before the Court.*

**7. Ld. AR further drew our attention to the judgment of Hon'ble Bombay High Court on the similar issue in the case of Sejal Jewellery & Anr. Vs. Union of India vide order dated 18.02.2025 reported 2025 (2) TMI 870- Bombay High Court (Copy placed in APB page 38 to 56), wherein the**

relevant findings of **Hon'ble Bombay High Court**, concurring the view offered by **Hon'ble Rajasthan High Court** in the case of **Shyam Sunder Khandelwal (supra)** reads as under:

*22. Applying the principles of law as discussed hereinabove, we are of the clear opinion that the foundation of the present case was certainly a search action which was undertaken by the Revenue against one Shilpi Jewellers Pvt. Ltd. and in such search and seizure action, materials were seized and such materials were further explored and enquired. Such enquiry revealed significant information in regard to M/s. Green Valley Gems Pvt. Ltd., which according to the Revenue had provided accommodation entries to the petitioner, in which it was also revealed that Green Valley Gems Pvt. Ltd. was a shell company. We do not find that the record would indicate something which is not on the basis of such new materials gathered under the search and seizure action under Section 132. If this be the case, then certainly the provisions of Section 153C read with Section 153A would be applicable, as held by the **Supreme Court in Abhisar Buildwell P. Ltd. (supra)** when the Court interpreted the effect and purport of Section 153( and 153A, as also held by the Rajasthan High Court in **Shyam Sunder Khandelwal (supra)**.*

*23. Insofar as Mr. Suresh Kumar's contention supporting the proceedings under Section 147 and 148 of I.T. Act are concerned, for the aforesaid reasons, such contention would in fact go contrary to the intention of the legislature as depicted by the provisions of Section 153A and 153C of the I.T. Act. There would not be any difficulty in accepting the proposition as canvassed by Mr. Suresh Kumar, referring to the decision of the Supreme Court in Phool Chand Bajrang Lal (supra), however, the facts in the present case are distinct. There cannot be any doubt on the position in law when the Revenue intends to proceed purely on materials relevant for an action under Section 148 read with Section 147. We have already observed that the provisions of Sections 147, 148 vis-a-vis Section 153A and Section 153 are quite compartmentalized. To avoid any overlapping of these provisions, the legislature in its wisdom has thought*

*it appropriate to provide for an independent effect, to be given under Section 153A read with Section 153C by incorporating the "non-obstante" clause, in these provisions, which carves out an exception to any normal/regular action being resorted under Section 147.*

*24. In this view of the matter, we are of the clear opinion that the impugned notice under Section 147 of the I. T. Act and all actions consequent thereto are required to be held to be without jurisdiction and bad in law. The petition is accordingly allowed in terms of prayer clauses (a) and (b).*

*25. Learned counsel for the parties are ad idem that the aforesaid observations would cover the of other companion matters, which also stand allowed in terms of our aforesaid reasoning and the operative order passed in Writ Petition No. 3057 of 2019. The said petitions hence stand allowed in terms of prayer clauses (a) and (b) of each of these petitions.*

*26. Rule is made absolute in the aforesaid terms. No costs.*

**8.** In backdrop of aforesaid submission, it was the prayer by Ld. AR that since in the present case the reassessment proceedings u/s 147 of the Act are initiated on the basis of material pertaining to / information relates to the assessee gathered during the course of Search & Seizure operation u/s 132 in the case of a third party i.e., Shri Suresh Kumar Agrawal, therefore, the assessment proceedings ought to have been initiated and completed u/s

153C of the Act, therefore, the reassessment proceedings completed invoking the provisions of section 147 is bad in law and liable to be quashed.

**9.** Per contra, Dr. Priyanka Patel, Ld. Sr. DR representing the revenue submitted that the assessment were rightly completed under the provisions of section 147 of the Act, to support such contention she read the facts of case from the analysis by the Ld. CIT(A), the same are culled out as under:

**3.1** *The assessee is engaged in the business of real estate and submitted its return of income for Assessment Year 2015-16 on 23.09.2015 declaring loss of Rs.4,30,463/-. The return was processed u/s. 143(1) on 10.10.2015. Subsequent to such incident there had been a search and seizure action in the case of Rashi Steel and Power Ltd. group on 22.01.2019. In such search and seizure operation, a statement was recorded u/s. 132(4) of one Suresh Kumar Agrawal, who was one of the Directors of Rashi Steel and Power Ltd. and also a Chartered Accountant by profession. In such deposition made on oath u/s. 132(4) of the Act on 22.01.2019 and on subsequent further dates Shri Suresh Kumar Agrawal admitted that he had made arrangement of accommodation entries to various companies which were arranged through paper/shell entities managed and controlled by another entry operator named Shri Praveen Agrawal, a known entry operator. In such deposition, Shri Suresh Kumar Agrawal admitted of having controlled 31 such shell entities which were all private limited companies. The Investigation Wing of the Income Tax Department further made enquiries and found out that out of the 31 shell entities narrated and admitted to be managed by Shri Suresh Kumar Agrawal, the assessee company apparently got benefit of unsecured loans from three such entities namely Best Advisory Pvt. Ltd., Shashanko Commotrade Pvt. Ltd. and Gazal Textiles and Finance Ltd. for a total amount of dubious unsecured loans for a sum of Rs.2,06,35,782,. The information was passed on to the Assessing Officer by the Investigation Wing of the Department. Based on such information, the Assessing Officer had reasons to believe that income has escaped assessment and the assessee has not*

*disclosed its affairs in true and fair manner. Therefore, a notice of reopening of the case u/s. 148 was issued to the assessee on 01.04.2021.*

**10.** In terms of aforesaid facts and circumstances, it was the prayer by Ld. Sr. DR that the provisions of Section 147 r.w.s. 148 are rightly invoked by the Ld. AO in the present case being satisfied that the income has escaped assessment for the year under consideration on account of unsecured loan received by the assessee from shell / bogus companies, therefore, the contention raised by the Ld. AR, that the assessment should have been completed under the provisions of Section 153C would be a bad and misconstrued interpretation of law and, therefore, such assertion by the assessee being devoid of any substance are liable to be rejected.

**11.** In rebuttal, Ld. AR submitted that in the assessment order itself Ld. AO had referred to various documents like return, balance sheet, audit report and other documents along with copy of Aadhar Card, Pan Card etc. of the directors of the Shell Companies, which were unearthed during the Search proceedings are the sole basis of reopening assessment. Accordingly, as per the principle of law laid down by the Hon'ble Apex Court in the landmark judgment in the case of **PCIT, Central-3 Vs Abhisar Buildwell (P.) Ltd., reported in (2023) 149 taxmann.com 399**, the application of provisions of section 147 would only be resorted to, if the provisions of section 153C or

153A cannot be invoked on the cases originating from the Search & Seizure Action by the revenue. The aforesaid analogy has further been duly deliberated upon by **the Hon'ble Rajasthan High court** in the case of **Shyam Sunder Khandelwal (supra)**, therefore, it is undoubtedly clear that the specific provisions of section 153C would prevail over the general provisions of section 147 in the case of Search on a third party. Since, all the aforesaid observations of the Hon'ble Courts are on the facts, similar to the facts of present case, therefore, the reopening u/s 147, without fulfilling of the necessary conditions of reopening assessment is bad in law, whereas since the information relating to the assessee are surfaced from the search operation on a third party, therefore, the right recourse available to the revenue was to assess the present case of assessee only u/s 153C. It is therefore, the request that the proceedings initiated u/s 147 are bad in law and the impugned orders framed on the foundation of such invalid proceedings would be liable to be quashed.

**12.** We have considered the rival submissions, perused the material available on record and the case laws relied upon by the assessee. In terms of aforesaid submission by the parties, the question before us is that, whether provisions of section 153C or Section 147 would have their applicability in the present matter. To answer the said question, we are referring to the

reasons to believe recorded by the Ld. AO after initiation of action u/s 147 of the Act, accordingly to which, a search & seizure operation was conducted u/s 132 of the Act on 22.01.2019 in the premises of Shri Suresh Kumar Agrawal at Kolkata. That during the subject search proceedings, statement of Shri Suresh Kumar Agrawal, Director of Rashi Steel and Power Ltd are recorded, wherein he admitted that he has made an arrangement for providing accommodation entries to various beneficiaries through shell/ paper/ Jamakarchi companies managed and controlled by Shri Praveen Agrawal. While giving statement before the ADIT(Inv.), Unit-III, Raipur, Shri Suresh Kumar Agrawal narrated a list of 31 Shell / Jamakharchi companies managed by him. The three Companies are namely: Best Advisory Pvt. Ltd., Shashanko Commotrade Pvt. Ltd. and Gazal Textiles and Finance P. Ltd., from whom assessee had received loan & advance amounting to Rs. 2,06,35,782/-. Ld. AO further noted that during the search action various documents were impounded from the office premises of Shri Suresh Kumar Agrawal at Room No. 28 & 29, Second Floor, 09, Mangoe Lane, Kolkata, such as return, balance sheet, audit report and other documents of above mentioned shall companies and also the copy of Aadhar Card, Pan Card of the Directors of the shell companies. It is further noted by the Ld. AO that *“from the above discussion, it is clear that the during the FY 14-15 the assessee had shown the unsecured loan of Rs. 2,06,35,782/- from the*

*companies, of whom identity has not been established, and creditworthiness is in question. From the statement of Shri Suresh Kumar Agrawal, it is also inferred that these transactions were not genuine. Thus, the transaction made by the assessee of Rs. 2,06,35,782/- is contravene to the provisions of Sec. 68 of the Act.*

**13.** Based on aforesaid reasons to believe, Ld. AO completed assessment and have made various additions u/s 68, 69C and section 69 of the Act.

**14.** Being aggrieved, assessee preferred an appeal before the Ld. CIT(A), wherein Ld. CIT(A) has granted substantial relief to the assessee, therefore, the revenue is in appeal against all such substantive reliefs allowed to the assessee by the Ld. CIT(A) and the assessee is in appeal is in appeal against the additions sustained.

**15.** Coming to the issue of applicability of appropriate section for assessment in the present case, we find substance in the contention raised by the Ld. AR and rightly so for the reason that entire proceedings and assessment u/s 147 was initiated and completed on the foundation of document and information surfaced during the search action by the Investigation Wing, wherefrom certain information relating to the assessee

are surfaced. On this aspect, Hon'ble Bombay High Court in the case of **Sejal Jewellery & Anr. Vs. Union of India & Ors. 2025 (2) TMI 870**, has held that the foundation of the present case was certainly a search action which was under taken by the revenue against a third party, if the record would not indicate something which is not on the basis of such new material gathered under the search and seizure action u/s 132, if this be the case then certainly provisions of section 153C r.w.s. 153A would be applicable.

**16. Hon'ble Mumbai High Court** in the aforesaid judgment further enlightened on the issue that the provisions of Section 147, 148 vis-à-vis Section 153A and Section 153 are quite compartmentalized. To avoid any overlapping of these provisions, the legislature in its wisdom has thought it appropriate to provide for an independent effect, to be given u/s 153A r.w.s. 153C by incorporating the "non-obstante" clause, in these provisions, which carves out an exception to any normal / regular action being resorted u/s 147.

**17.** Respectfully following the aforesaid jurisprudence and the analogy drawn by Hon'ble Courts (supra), having given a thoughtful consideration to the facts and circumstances of the present case, admittedly, as per the facts on record, nothing is emanating to show that there was any material with the

Ld. AO besides the material gathered during the search action u/s 132 of the Act, therefore, the assessment in the present case was to be completed under the provisions of section 153C only, consequently, the proceedings initiated u/s 147 of the I T Act, and all actions consequent thereto are held to be bad in law. In the background of such observations, and the settled position of law, we are of the considered opinion that the legal ground raised by the assessee has the substance to be allowed. Accordingly, the impugned assessment order dated 17.03.2022 framed u/s 147 r.w.s. 144B in the present matter passed following the provisions of section 147, whereas the genesis of the initiation of assessment in the present case was based on information related to assessee unearthed during the search and seizure action on a third party, which ought to have been completed under the specific provisions of section 153, therefore the impugned assessment proceedings has been rendered as *void ab initio* and the assessment framed stands, quashed.

**18.** Since we have quashed the assessment in the present matter for invalid initiation of proceedings u/s 147 instead of section 153C of the Act, therefore, the other issues raised by either of the parties remain academic only, thus, need not be adjudicated.

ITA No. 160 & 153/RPR/2025  
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ITO, Ward-1(1), Bilaspur vs Musaddilal Mansaram Infrasture Pvt. Ltd.

**19.** In result, the appeal of the assessee is **allowed**, whereas the appeal of revenue stands **dismissed**.

Order pronounced in the open court on 18/09/2025 u/r 34(4) of the ITAT, Rules.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ARUN KHODPIA)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**रायपुर / Raipur;** दिनांक Dated 18/09/2025  
Vaibhav Shrivastav

**आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant-
2. प्रत्यर्थी/ The Respondent-
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR,  
ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur