

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No. 3862/MUM/2025 (AY:2013-14)  
ITA No. 3950/MUM/2025 (AY:2014-15)  
ITA No. 3951/MUM/2025 (AY:2015-16)  
ITA No. 3952/MUM/2025 (AY:2016-17)  
ITA No. 3953/MUM/2025 (AY:2017-18)  
ITA No. 3954/MUM/2025 (AY:2018-19)  
ITA No. 3955/MUM/2025 (AY:2019-20)

Mohammad Saleem 6395, Basti Chatankidelhi, Quresh Nagar, Delhi, New Delhi- 110006	Vs.	Assistant Commissioner Of Income Tax Central Circle 4(4), Mumbai Room No. 1922, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai- 400021
<b>PAN: BIHPS6247K</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. Abhinav Vijh
Revenue by	Shri. Umashankar Prasad, CIT.DR
Date of Hearing	18/12/2025
Date of Pronouncement	30/12/2025

**Order under section 254(1) of Income Tax Act**

**PER ARUN KHODPIA, ACCOUNTANT MEMBER:**

The captioned appeals are filed by the assessee against the orders of CIT(A)/NFAC, 52, Mumbai (in short 'the Ld. CIT(A)') dated 08.11.2024 for the Assessment Year 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20, which in term arises from the order u/s 153C / 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 28.09.202, 27.09.2021 passed by Assistant Commissioner of Income Tax Central Circle 4(4), Mumbai (in short 'the Ld. AO').

## Condonation of Delay:

2. The captioned appeals are time barred being filed with a delay of 120 days. In explanation for sufficient in intentional cause beyond the control of assessee, petitions for condonation are filed for all the years under consideration. Application along with affidavit for AY 2013-14 are reproduced as under:

30.05.2025

To,  
The Hon'ble Members,  
Income-tax Appellate Tribunal,  
Mumbai

**IN RE: MOHAMMAD SALEEM**  
**PAN: BIHPS6247K**  
**ASSESSMENT YEAR: 2013-14 to 2019-20**

Subject: - Application for condonation of delay in filing the Appeals before the Hon'ble Income Tax Appellate Tribunal ('ITAT'), Mumbai, against the order of the Commissioner of Income Tax (Appeals), Delhi under section 250 of the Act dated 08.11.2024

Respected Members,

### APPLICATION FOR CONDONATION OF DELAY

1. The Appellant respectfully submits that the present appeal is being preferred against the order dated 08.11.2024 passed by the Commissioner of Income Tax (Appeals), Mumbai, in respect of Assessment Years 2013-14 to 2019-20.
2. The appeal is being filed with a delay of 120 days from the date of the impugned order. The Appellant humbly prays that the delay may be condoned in view of the bona fide and genuine circumstances, which were beyond his control.
3. The Appellant is approximately 59 years of age, is illiterate and uneducated, and has no familiarity with legal or procedural compliances under the Income Tax Act. Owing to his age and deteriorating health, he has not been in a position to monitor his income tax matters or regularly access the e-filing portal.
4. The Appellant respectfully submits that the impugned order dated 08.11.2024 was never brought to his notice by any communication from the Income Tax Department. No email or SMS alert was received. Even on the date of preparing this application, the designated email account associated with the e-filing portal was carefully checked, and there is no record of service or communication regarding the said order. The absence of any such notification or communication has significantly contributed to the delay.
5. The Appellant became aware of the said order only when his Chartered Accountant logged into the income tax e-filing portal on 23.05.2025 for some unrelated compliance and noticed that the CIT(A)'s order had been uploaded. Upon being informed of the same, the Appellant immediately took steps to initiate the process for filing the present appeal without any further delay.

6. The delay in filing the appeal is thus not deliberate or negligent, but caused due to the Appellant's advanced age, ill health, lack of education, and absence of knowledge regarding the procedural aspects of the Act. The Appellant has acted promptly upon becoming aware of the order and has no intention to gain any undue advantage by the delay.
7. The Appellant submits that the present appeal raises substantial and arguable grounds on merits. If the delay is condoned, no prejudice would be caused to the Revenue, whereas non-condonation would cause serious and irreparable harm to the Appellant.
8. It is a settled position in law that the cause of substantial justice should not be thwarted by technical or procedural considerations. The Hon'ble Supreme Court in Collector, Land Acquisition v. Mst. Katiji & Ors. [(1987) 167 ITR 471 (SC)] has laid down that a liberal and pragmatic approach should be adopted while considering applications for condonation of delay, particularly where the explanation is bona fide.
9. In view of the foregoing facts and circumstances, it is respectfully prayed that this Hon'ble Tribunal may be pleased to condone the delay of 120 days in filing the present appeal and admit the same for adjudication on merits, in the interest of justice and equity.
10. The contents of this application have been read over and explained to the Appellant in Hindi, and he affirms the same to be true and correct to the best of his knowledge and belief.

Yours Sincerely,



MOHAMMAD SALEEM  
[APPELLANT]

**Encl: Affidavit for Condonation of Delay along with supporting documents**



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

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Certificate No. : IN-DL92752340682824X  
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Unique Doc. Reference : SUBIN-DL92752340682824X  
Purchased by : MOHAMMAD SALEEM  
Description of Document : Article 4 Affidavit  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : MOHAMMAD SALEEM  
Second Party : Not Applicable  
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**BEFORE INCOME TAX APPELLATE TRIBUNAL, MUMBAI**

**IN THE MATTER OF:**

**MOHAMMAD SALEEM**

**PAN: BIHPS6247K**

**ASSESSMENT YEAR: 2013-14 to 2019-20**

**AFFIDAVIT**

I, Mohammad Saleem, s/o Mr. Shafiquddin, aged about 59 years, R/o 6395, Gali Chittanki, Qasab Pura, Sadar Bazar, North Delhi, Delhi- 110006, do hereby solemnly affirm and state as under:

1. That I am the Appellant in the captioned matter, and in this capacity, I am fully aware of the facts and circumstances of the present case and am competent to provide this affidavit.
2. That I have read and understood the contents of the accompanying application for condonation of delay and the same has been drafted under my instruction, and the contents of which are true and correct based on records.
3. It is submitted that I'm an illiterate and uneducated person, and have no familiarity with legal or procedural compliances under the Income Tax Act. Owing to my age and deteriorating health, I have not been in a position to monitor my income tax matters or regularly access the e-filing portal.
4. Further, it is submitted that the impugned order dated 08.11.2024 was never brought to my notice by any communication from the Income Tax Department. No email or SMS alert was received. Even on the date of preparing this application, the designated email account associated with the e-filing portal was carefully checked, and there is no record of service or communication regarding the said order. The absence of any such notification or communication has significantly contributed to the delay.
5. I become aware of the said order only when my Chartered Accountant logged into the income tax e-filing portal on 23.05.2025 for some unrelated compliance and noticed that the CIT(A)'s order had been uploaded. Upon being informed of



the same, thereafter, I immediately took steps to initiate the process for filing the present appeal without any further delay.

6. The delay in filing the appeal is thus not deliberate or negligent, but caused due to my advanced age, ill health, lack of education, and absence of knowledge regarding the procedural aspects of the Act. Now, I have acted promptly upon becoming aware of the order and have no intention to gain any undue advantage by the delay.
7. It is, therefore, respectfully prayed that this application may be allowed, the delay in filing the appeal may be condoned, and the matter may be heard on its merits in the interest of justice.
8. The contents of this Affidavit have been read over and explained to me in Hindi, and I affirm the same to be true and correct to the best of my knowledge and belief.

*o - Saleem*  
DEPONENT

*Pratibha*  
I identified the deponent who has signed in my presence.

#### VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge. No part of it is false nothing material is concealed there from.

Verified on this 30 MAY 2025 day of \_\_\_\_\_ 2025 at New Delhi.



ATTESTED

NOTARY (Govt. of India)  
Neelam Sharma  
Advocate  
No 165A, Gate No. No. 11,  
Patiala House Courts,  
New Delhi-110001  
(M.F. 9899408309)

30 MAY 2025

*o - Saleem*  
DEPONENT

Certified that the foregoing statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted as correct.

NOTARY DELHI  
(Govt. of India)

30 MAY 2025

3. Going through the contents of the condonation petition and affidavit, we find substance in the request of the assessee, who is an uneducated person. The communication of the impugned orders was not received by the assessee through email or SMS, which could have come to his notice only when e-portal of department has been logged into by his chartered accountant. Nothing on records suggests any intentional or deliberate attempt of the assessee to delay the filing of appeal. We, thus, in the interest of justice condone the delay in filing of aforesaid appeals, so as proceed to adjudicate the same in terms of grounds of appeal raised therein.

4. All the aforesaid appeals pertain to same assessee, emerging from search and seizure action on Allana Group, having identical, interconnected and interwoven facts, therefore, these appeals, for the sake of brevity are heard together and are disposed off under this common order.

5. The issue raised in the aforesaid appeals are dividend in three parties,

(i). That the assessment years are completed after the stipulated date under the Act, accordingly, such assessments are barred by limitation and the assessing officer lacks assumption of jurisdiction to complete such assessments.

(ii). The assessment was complete u/s 143(3) instead of section 153C of the Act while the basis of assessment was a search and the assessment fails within the period of 6 years as per provision of section 153C r.w.s. 153A of the Act and

(iii). The remaining appeals are to be decided, as per the grounds of appeal raised therein.

6. The first category of appeal pertains to assessment year 2013-14 and 2014-15. **ITA 3862/Mum/2025 for AY 2013-14 & 3950/Mum/2025 for AY 2014-15**

6.1 For the aforesaid two appeals the assessee raised a specific issue in Ground No. 1 of the appeal, that the notice issued u/s 153C of the Act and the consequent assessment passed by the Assessing Officer are fundamentally flawed, being without jurisdiction, barred by limitation and passed in violation of the provisions of the Act.

6.2 To elaborate upon the aforesaid anomaly claimed in invoking the provisions of section 153C, Ld. AR submitted a written note before us which is extracted as under:

***B. Proceedings for AY 2013-14 and AY 2014-15 are barred by limitation since the commencement point for the purposes of computation of the block of six Assessment years as per 1st Proviso to Section 153C has to be reckoned from the date of recording of satisfaction note (Applicable for AY 2013-14 and AY 2014-15):***

14. In addition to our contention that the proceedings for AY 2013-14 to AY 2019-20 ought to be quashed in absence of any satisfaction note recorded. Even otherwise for AY 2013-14 and AY 2014-15 the proceedings are barred by limitation as the same falls outside the block of 6 years when calculated from substituted dated of search in case of "Other than searched person" as mandated by 1<sup>st</sup> proviso to section 153C. The relevant dates to compute the block of six AY in present case are as follows:

i) Date of Search on Allana Group (searched person): **03.01.2019**

ii) Date of recording of satisfaction note (though not supplied to assessee): **22.09.2020**

iii) Date of issuance of notice under section 153C: **30.09.2020 (refer para 5 page no 7 of Assessment Order)**

15. The Hon'ble Supreme Court in **CIT v. Jasjit Singh [2023] 458 ITR 437(SC)** has categorically held that the **first proviso to section 153C(1) governs not merely abatement but also the starting point for computation of the six assessment years** in the case of a person other than the searched person. The Hon'ble Court held that the six-year block **must be reckoned from the date on which the seized material is handed over to the jurisdictional Assessing Officer of the other person**, and not from the date of search in the case of the searched person (**Relevant para 9 and 10 of the judgement**) (Copy of the said judgement is attached herewith as **Annexure 5 at Page no. 49 to 54.**)

16. In view of these undisputed facts, and considering the settled legal position, the financial year relevant for the purpose of section

153C becomes FY 2020-21, and consequently, the assessment year relevant to the "search" in the case of the assessee is AY 2021-22. We have also made a chart for the purpose of reckoning six assessment years immediately preceding the year of search for issuing notice under section 153C at **Page 247 of PB**. Applying the above binding precedents to the facts of the present case, once the satisfaction note is stated to have been recorded on **22.09.2020**, the **relevant assessment year becomes AY 2021-22**, and the block of six assessment years under section 153C would comprise AYS 2015-16 to 2020-21. Consequently, AVS 2013-14 and 2014-15 fall outside the statutory block of six years and are thus barred by limitation, rendering the assumption of jurisdiction and the assessments for those years void ab initio.

17. This legal position has been reiterated and lucidly applied by the Hon'ble Delhi High Court in **PCIT v. Ojjus Medicare (P.) Ltd. 465 ITR 101 (Delhi High Court)**, wherein it has been held that the first proviso to section 153C embodies a statutory deeming fiction which shifts the reference point from the date of initiation of search to the date of receipt of books of account, documents or assets by the Assessing Officer of the non-searched person. The Hon'ble High Court further clarified that where the exact date of handing over of documents is not discernible from the record, the date of recording of the satisfaction note under section 153C would be the relevant and determinative date for the purposes of identifying the block of six assessment years. Relevant extract of the Judgment is reproduced below:

#### "K. SUMMARY OF CONCLUSIONS

119. We thus record our conclusions as follows:

A. Prior to the insertion of sections 153A, 153B and 153C, an assessment in respect of search cases was regulated by Chapter XIVB of the Act, comprising of sections 158B to 158BI and which embodied the concept of a block assessment. A block assessment in search cases undertaken in terms of the provisions placed in Chapter XIVB was ordained to be undertaken simultaneously and parallelly to a regular assessment. Contrary to the scheme underlying Chapter XIVB, sections 153A, 153B and 153C contemplate a merger of regular assessments with those that may be triggered by a search.

.....

.....

B. ....

C. Section 153C, on the other hand, pertains to the non-searched entity and in respect of whom any material, books of account or documents may have been seized and were found to belong to or pertain to a person other than the searched person. As in the case of section 153A, section 153C was also to apply to all searches that may have been undertaken between the period 01 June 2003 to 31 March 2021. In terms of that provision, the AO stands similarly empowered to undertake and initiate an assessment in respect of a non-searched entity for the six AYs' as well as for "the relevant assessment year". The AYs', which would consequently be thrown open for assessment or reassessment under section 153C follows lines pari materia with section 153A.

**D. The First Proviso to section 153C introduces a legal fiction on the basis of which the commencement date for computation of the six year or the ten year block is deemed to be the date of receipt of books of accounts by the jurisdictional AO. The identification of the starting block for the purposes of computation of the six and the ten year period is governed by the First Proviso to section 153C, which significantly shifts the**

**reference point spoken of in section 1534(1), while defining the point from which the period of the "relevant assessment year" is to be calculated, to the date of receipt of the books of accounts, documents or assets seized by the jurisdictional AO of the non-searched person. The shift of the relevant date in the case of a non-searched person being regulated by the First Proviso of section 153C(1) is an issue which is no longer res integra and stands authoritatively settled by virtue of the decisions of this Court in SSP Aviation and RRJ Securities as well as the decision of the Supreme Court in Jasjit Singh. The aforesaid legal position also stood reiterated by the Supreme Court in Vikram Sujitkumar Bhatia. The submission of the respondents, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted.**

*E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs' would consequently be those which immediately precede the A.Y. relevant to the year of search. In the case of a search assessment undertaken in terms of section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under section 1534."*

**(Emphasis Supplied)**

18. It is further submitted that the aforesaid legal position stands conclusively affirmed by the Hon'ble Bombay High Court in **Ashok**

**Khandelwal v. Union of India (W.P. No. 5412 of 2024)**, (Copy of the said judgement is placed at **Page no. 237 to 246**. Finding of the court is at **Para 12 onwards**) wherein the Hon'ble Court has expressly referred to and followed the ratio laid down by the Hon'ble Supreme Court in **CIT v. Jasjit Singh** as well as the judgment of the Hon'ble Delhi High Court in **PCIT v. Ojjus Medicare (P.) Ltd.**. The Hon'ble Bombay High Court reiterated that, in the case of a non-searched person, the **first proviso to section 153C shifts the reference point for computation of the block of six assessment years from the date of search to the date of handing over of seized material or the date of recording of satisfaction**, and that any attempt by the Revenue to reckon the block with reference to the date of search in the case of the searched person is contrary to the statutory mandate and binding precedent. By approving and applying the reasoning of *Jasjit Singh* (SC) and *Ojjus Medicare* (Del HC), the Hon'ble Bombay High Court has thus put the issue beyond any pale of doubt, rendering the computation of the block of six assessment years in derogation thereof legally unsustainable.

19. As such, since satisfaction note is stated to have been recorded on 22.09.2020, the relevant assessment year of search becomes AY 2021-22, and the block of six assessment years under section 153C would comprise AYs 2015-16 to 2020-21. Consequently, AYs 2013-14 and 2014-15 fall outside the statutory block of six years and are thus barred by limitation, rendering the assumption of jurisdiction and the assessments for those years void ab initio.”

6.3 In rebuttal to aforesaid submissions of the assessee, the revenue also had furnished a written submission, which is extracted here under for the sake of interpretation:

**Sub: WRITTEN SUBMISSION IN THE CASE OF MOHAMMED  
SALEEM [ITA NO. 3862/M/2025, ITA NO. 3950-3955/M/2025]**

1) Regarding AY 13-14 & AY 14-15, it is respectfully submitted that w.e.f. 01.04.2017, proceedings u/s 153C can be initiated upto 10 years in case of searches conducted on and after April 1, 2017, provided specific conditions are met i.e. if income escaping assessment amounting to Rs. 50 lakhs or more for period beyond 6 years. In appellant case admittedly search was conducted after 1.04.17 and quantum of escapement of income exceeds 50 lakhs. Therefore, it is humbly submitted that order passed u/s 153C for AY 13-14 and AY 14-15 is valid and not time barred. (please refer 4th provision to see 153A of the act).

2) Regarding controversy of block years to applied from date of search of searched person or date of receiving documents/materials by Assessing Officer of third party having jurisdiction over that assessee u/s 153C of act, it is respectfully submitted in this case warrant was issued also in the case of assessee so seventh year has to be done u/s 143(3) of the Act only, irrespective of whether assessment was done u/s 153A or 153C of the Act for block year. Further with effect from 01.04.17, an amendment has been brought in 153C(1) itself. The same is as under:

"[Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151, section 153, where the assessing officer is satisfied that.-

A) Any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

B) Any books of account or documents, seized or requisitioned pertains or pertain to, or any information contained there in, relates to,

*A person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person] [and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person **\*[for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment years or years referred to in sub section (1) of section 153A]***

*\* Inserted by the Finance Act, 2017, w.e.f 1-4-2017.*

*Decision of Hon'ble Supreme Court in Jasjit Singh is distinguished as matter was involved prior to amendment brought into the Act.*

*Therefore, it is respectfully submitted that decision of Apex Court may not be applicable in present case.*

*3) Regarding Net Profit @0.5% made by Assessing Officer, it is respectfully submitted that assessee was not doing business on commission basis. This fact was confirmed by purchaser also on statement u/s 132(4) of the Act and it is also a fact that no TDS has been deducted by purchaser on payment against purchase from appellant. Although turnover exceeds the prescribed limit for tax audit, it is admitted fact that no books of account are maintained by appellant and audited." It is also admitted fact that no stock register, purchase register and sale register was maintained.*

*Therefore, his version of Rs. 0.15/kg cannot be accepted. Further, working of monetary term on sale of Rs. 0.15/kg was not given before Assessing Officer as well as concerned CIT(A) and before Hon'ble bench also.*

*Assessing Officer has rightly rejected books of account and estimated profit on sales turnover.*

*The same is submitted for kind consideration.”*

6.4 On a thoughtful to the aforesaid submissions by both the parties, we find substance in the argument of the revenue that after 01.04.2017, pursuant to amendment in section 153C r.w.s. 153A and its proviso's defining "income represented in the form of asset, escaped assessment amounts to or likely to amount to fifty Lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years". For this purpose, as per *explanation 1* to sub section (1) of section 153A "relevant assessment year" means assessment years which falls beyond six years from the end of AY relevant to previous year in which the search is conducted or requisition is made. However, the years beyond 6 assessment years could be brought to reassessment u/s 153C only on fulfilment of certain conditions laid in the statute. To test the aforesaid conditions on the facts of the present case, we observe as under:

6.5 Search in the present case on the Allana Group was conducted on 03.01.2019, satisfaction note as per assessment

order was recorded on 22.09.2020 and the notice u/s 153C were issued to assessee on 30.09.2020, all are occasioned after 01.04.2017, so the period of assessment u/s 153C r.w.s.153A(1) can be extended up to 10 years, subject to fulfilment of conditions prescribed u/s 153A, its proviso's and explanations thereto.

6.6 On a perusal of the facts in present case, to bring the case of assessee within the parameters of “relevant year” to reopen the assessments beyond six preceding years, which in present case shall be reckoned from the date on which the seized material was handed over to the Jurisdictional AO of the assessee (other person), as held in the case of ***CIT Vs. Jasjit Singh (2023) 458 ITR 437(SC)*** and other decisions referred to ***supra***, accordingly, the assessment year relevant to the search/requisition made, in instant case would be AY 2021-22 (being satisfaction note was recorded on 22.09.2020 – FY 2020-21) and the block of six preceding assessment years as per section 153A(a) would be AYs 2015-16 to 2020-21. Consequently, AY 2013-14 and 2014-15 falls out side the block of six years, but falls within the meaning of “relevant assessment year”, which allows the Ld. AO to stretch span of assessment u/s 153C r.w.s. 153A upto 10 years. However, for 4 assessment years, beyond 6 preceding assessment years, the AO has to have in his possession books of accounts or other document or evidence, which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or likely to amounts to Rs. Fifty Lakh or more in the relevant assessment year or in

aggregate in relevant assessment years. As per assessment order for AY 2013-14 and 2014-15, the addition made was Rs. 8,53,345 and Rs. 22,78, 569/-, which are neither independently nor collectively exceed the amount of Rs. 50 Lakh, neither it was the case of the ld. AO, as per entire assessment order that such amount is likely to exceed Rs. 50 Lakh, so the proviso and explanation to bring these two years (AY 2013-14 and 2014-15) within the meaning of “relevant assessment years”, as per provisions of section 153(1)(a) r.w. 4<sup>th</sup> proviso and explanation 1 of the said sections fails and the assumption of jurisdiction by the Ld. AO, would be construed as beyond his jurisdiction for the years beyond six preceding assessment years. Accordingly, we hold that the preconditions to reopen the assessment u/s 153C for AY 2013-14 and 2014-15 could not adhered to by the ld. AO to assume valid jurisdiction, as per provisions of section 153C r.w.s. 153A(1) of the Act., while treating AY 2013-14 and 2014-15, to qualify as “Relevant Assessment Year”, falling beyond the block of 6 assessment years from the end of the assessment year relevant to the previous year in which the search is conducted or requisition is made (in present case AY 2021-22, as discussed supra), having quantum of escaped income less than Rs. 50 Lakh. We, thus, in terms of above discussion, are of the view that the assessment order dated 28.09.2021 and 27.97.2021 for AY 2013-14 and 2014-15 passed without valid assumption of jurisdiction by the Ld. AO, cannot survive, so are liable to be struck down.

**6.8 In result, appeal of the assessee in ITA 3682 and 3950/MUM/2025 for AY 2013-14 and 2014-15, are allowed in terms of our aforesaid observations.**

**7. ITA 3955/MUM/2025 for assessment year 2019-20, falls under the second category**

7.1 For AY 2019-20, Ld. AR of the assessee challenge the assessment passed u/s 143(3) on the legal ground that, such assessment could not have been made u/s 143(3), since such assessment falls within a period of six years, such assessment if at all ought to have been made by issuing notice u/s 153C of the Act.

7.2 A written submission to substantiate the aforesaid claim is filed before us by the Ld AR, which is extracted as under:

***C. Proceedings for AY 2019-20 could not have been made under section 143(3) since AY 2019-20 falls within the six preceding assessment years and assessment if at all ought to have been made by issuing notice under section 153C of the Act. (Argument Applicable for on AY 2019-20)***

*20. Further and without prejudice to our earlier contentions, it is submitted that the assessment for AY 2019-20 has been framed under section 143(3) of the Act, which is ex facie without jurisdiction. Once it is accepted, on the basis of the first proviso to section 153C, that the block of six assessment years in the present case comprises AYs 2015-16 to AY 2020-21, AY 2019-20 squarely falls within the said block. In such a situation, the only legally permissible course*

available to the Assessing Officer was to issue notice and frame assessment under section 153C read with section 153A, and not under the regular provisions of section 143(3). Framing a regular assessment for a year which statutorily falls within the 153C block constitutes a jurisdictional error going to the root of the matter, rendering the assessment non est and void ab initio.

21. This position flows directly from the **proviso to section 153A(1)**, which mandates that **all pending assessments for the six assessment years forming part of the block shall abate**, and thereafter **only one consolidated assessment** for each of those years can be framed under the special code contained in sections 153A/153C. Once abatement operates by force of statute, the Assessing Officer is divested of jurisdiction to proceed under section 143(3), and any assessment so framed is legally unsustainable. The special provisions of section 153C r.w.s 153A override the general assessment machinery, and compliance therewith is mandatory and not procedural.

22. The above principle has been judicially affirmed by the **Hon'ble ITAT, Mumbai Bench**, in **D G Land Developers (P.) Ltd. v. ACIT[2024] 166 taxmann.com 620 (Mumbai - Trib.)**, wherein, after relying upon the decision of the Hon'ble Supreme Court in *Jasjit Singh (supra)*, the Hon'ble Coordinate bench of this Tribunal categorically held that **where an assessment year falls within the six assessment years to be assessed under section 153C read with section 153A, but the Assessing Officer completes the assessment under section 143(3), such action is invalid in law and the assessment is liable to be quashed**. (Copy of the said judgement is attached herewith as **Annexure 6** at **Page no. 55 to 71 relevant paras 9.4 and 9.5**).

23. The above legal position has been affirmed by this very tribunal in case of **Ramrao Adik Education Society v. DCIT, Central Circle-7(1), in IT.A. No. 1515/Mum/2025 (ITAT Mumbai)**, the aforesaid decision rendered by the coordinate bench of which the Hon'ble JM was a member has followed the ration laid down in *Jasjit Singh (SC)* (supra) and unambiguously held that when an AY falls within the block of six assessment years the assessment cannot be done under section 143(3) and same has to be done under section 153C of the Act. (Copy of the said has been submitted in the course of hearing refer **para 11 and 12**)

24. A similar view has been taken by the Delhi Bench of the Tribunal in **Akansha Gupta v. ACIT**, wherein it was held that once the seized material is received and satisfaction is recorded triggering section 153C, the assessment year relevant thereto and the six preceding years must necessarily be assessed under section 153C, and **any assessment framed under section 143(3) for such year is without jurisdiction and liable to be quashed** (Copy of the said judgement is attached herewith as **Annexure 7** at **Page no. 72 to 85** refer discussion at para 9)

Similar View has been expressed in the following judgements:

- **Bijay Kumar Soni v. DCIT**, ITA Nos. **1883 & 2144/Del/2023, Delhi Bench 'H'**, order dated **06.09.2023** Held that where an assessment year falls within the block governed by section 153C, framing assessment under section 143(3) is without jurisdiction and liable to be quashed.
- **Esha Kedia v. ACIT**, ITA Nos. **5142-5144/Del/2018, Delhi Bench 'B'**, order dated **27.02.2025**-Reiterated that the six-year block under section 153C is to be reckoned from the date of handing over of seized

material and that assessments for any AY falling within 6 AY's or de hors section 153C are invalid.

- **Seema Jain v. DCIT**, ITA No. **1206/Del/2024**, **Delhi Bench 'G'**, order dated **04.11.2024** Following *Jasjit Singh (SC)* and *Ojjus Medicare (Del HC)*, held that assessment framed under section 143(3) for a year forming part of the 153C block is non est in law.
- **Radha Rani v. ACIT**, ITA No. **214/Asr/2023**, **Amritsar Bench**, order dated **10.01.2024** Held that where seized material is used against a non-searched person, then if the AY falls with immediately six preceding years reckoned for the substituted dated of serach as per first proviso to section 153C, the assessment must necessarily be framed under section 153C and not under section 143(3).
- **Rakesh Kumar Kataria v. DCIT**, ITA No. **159/Chd/2020**, **Chandigarh Bench 'B'**, order dated **15.04.2024**- Held that where seized material belonging to a non-searched person is used, the assessment must necessarily be framed under section 153C, and an assessment framed under section 143(3) without following section 153C is void ab initio, further holding that for a non-searched person the six-year block is to be reckoned from the date of handing over of material as per the first proviso to section 153C, following **Jasjit Singh (SC) (Supra)**.”

7.3 Per contra Ld. CITDR, representing the revenue, on the issue of assessment completed u/s 143(3) instead of section 153C, vehemently supported the orders of revenue authorities.

7.4 The issue of completing the assessment u/s 143(3) instead of 153C, in the cases falling within six assessment years to be assessed under section 153C r.w.s. 153A of the Act, are liable to be quashed, is squarely covered by the decisions relied upon by the Ld. AR (referred to supra) in his aforesaid submissions, we

thus concur with same and are inclined to hold that the assessment for AY 2019-20 in present case completed u/s 143(3) was in contradiction to the settled position of law, accordingly it is liable to be quashed.

**7.5 Consequently, appeal of assessee in ITA 3955/MUM/2025 stands allowed, in terms of our aforesaid observations.**

**8. ITA 3951 – 3954/MUM/2025 for AY 2015-16, 2016-17, 2017-18 & 2018-19, pertains to third category of appeals**

8.1 Brief facts: Consequent to search action, in the centralization meeting, Allana Sons Pvt. Ltd. & other group was decided to be centralized with ACIT, Central Circle-4(4), C.R.- 4, Mumbai vide letter no. CCIT(C)-2/Centralization/2019-20 dated 05.04.2019. The assessee's case was centralized with ACIT, Central Circle-4(4), Mumbai vide centralization order No. Pr. CIT-21/Order u/s127/2019-20/735 dated 20.08.2019.

8.2 A satisfactory note and reasons for issue notice u/s 153C of the IT Act in the case of the assessee were recorded vide order sheet noting dated 22.09.2020 and a notice u/s 153C of the Act was issued to the assessee on 30.09.2020 and duly served upon the assessee calling for returns of income for AY 2013-14 to 2018-19.

8.3 The assessee is claimed to be one of the purchase parties of Allana Group in his individual capacity as well as in the name of his partnership firm i.e. M/s. Nanhe Gulzar & Co. During the search & seizure action carried out in case of M/s. Allansons Pvt. Ltd. & others group, premise of the assessee, at 6395, Quresh Nagar, Basti Chitanki was also covered. During the search proceedings, a statement on oath was recorded of Shri Md. Saleem in which he claimed that he sells animal son commission of Rs. 0.25 per kg to Allana Group of entities. He also claimed that he purchases animal on credit from farmers and sells them to slaughter house of Allana group in Ghazipur. And, from the payments received through cheques/RTGS from Allana group, he makes payments to farmers in cash. On being asked about the PAN of the purchase parties, the assessee showed his inability to provide the same. On being queried as to how books of accounts are prepared for the financial transactions entered into by him with Allana group, he stated that he provides weightment slip and payment voucher provided by Allana group to his CA which is being incorporated in books of accounts. He also stated that he has been supplying animals to Allana group in his individual capacity as well as in the name of its partnership firm namely, M/s. Nanne Gulzar & Co. (AALFN4781E). And, nature of transactions in the said firm is similar to the one explained by him.

8.4 The disputed transactions by the assessee and the basis of assessment has been summarized by the AO, as under:

- 1. The assessee is claimed to be into the commission business and supplying Buffaloes to the Allana group of entities after procuring from farmers. Also, he has been given a small place to work in the slaughter house at Ghazipur run by Allana group.*
- 2. PAN, Address and other relevant details of purchase parties could not be provided by the assessee.*
- 3. He failed to provide purchase invoices, purchase order, and purchase register in respect of the purchases claimed to be made by the assessee.*
- 4. The assessee failed to substantiate its purchase and sale transactions with complete documentary evidences.*

*In view of the above finding, it is clearly established that assessee has failed to conclusively prove its claim of being a supplier of animals.*

8.5 Before the Ld. AO, assessee furnished following documents:

- 1. Copies of purchase invoices, purchase register, delivery challan or lorry receipts and details of purchase parties with name, address, PAN etc along with ledger copies of parties to whom an amount of Rs. 5 lakh and more has been paid during the year under consideration.*

2. *Copies of sales invoices, sales register, evidence in support of delivery of goods like delivery challan or lorry receipts etc.*
3. *Copy of agreement entered into with purchaser Allana group of entities.*
4. *Copy of trade license and other license mandatory for buffalo traders & suppliers.*

8.6 After lengthy discussions, wherein the assessee claimed himself to be a be kaccha arahtia, whereas Ld. AO treated him to be pacca arahtia, the assessment was completed by the Ld. AO with an estimated addition under identical finding for all the AY's under consideration, for illustration the observations for the AY 2015-17 are extracted, as under:

8.7 As per the findings of search proceedings in case of Allana Group and submission made by Allana Group of entities during the assessment proceedings, total sales made by the assessee to Allana Group of entities for the year under consideration are found to the tune of Rs. 32,63,15,489/-. Therefore, considering the facts & circumstances of the case and nature of business of the assessee, I am satisfied that net profit of 0.5% of total sales made by the assessee, should be taxable in the hands of the assessee. Accordingly, an amount of Rs. 16,31,577/- is found to be income of the assessee and is taxable in the hands of the assessee as business income for the year

under consideration over and above the income offered by the assessee in the return of income.

8.8 Before us Ld. AR of the assessee, while submitting on the merits have submitted that the estimation done by the Ld. AO was without any basis, not fair and unjustified in terms of facts and figure of the assessee, who had declared a gross profit ranging between 0.07% to 0.26% of total credits in his bank account for the years under consideration. It is also submitted that if a fair average % would be estimated, the assessee, inspite of having legal grounds thorough which the entire addition may have deleted, would agree to offer the additional income based on fair estimation to settle the litigation.

8.9 It is also submitted that for AY 2017-18, no GP rate estimation should have been done, since the return income of that year was accepted by the revenue under scrutiny assessment proceedings and no new fact or incriminating material was found during the search.

8.10 A chart showing, returned income of the assessee, credit in bank account, commissioned earned, net profit, addition made, assessed income etc submitted before us, the same is extracted here under for better appreciation of the facts:

**Mohamad Saleem - BIHPS6247K**

**AY 2013-14 to AY 2019-20**

S. No.	A.Y	Section of Assessment	Total Bank Credits	Commission on Income/ Gross Profit Ratio	Gross Profit Ratio	Net Profit	Net profit Ratio	Returned Income	Assessed Income	Addition	Demand	Date Of Order
1	2013-14	153C	169040525	338081	0.20	210191	0.12	210190	1063535	853345	309446	28-09-2021
2	2014-15	153C	446443746	892887	0.20	283805	0.06	283810	2562380	2278569	1165286	27-09-2021
3	2015-16	153C		844965	0.20	415922	0.10	365520	1997100	1631577	765012	27-09-2021
4	2016-17	153C	622178123	1135362	0.18	548485	0.09	498090	3286220	2788128	1355459	27-09-2021
5	2017-18	153C	2878950656	1893285	0.07	913282	0.03	1124150	15442230	14318079	7925092	27-09-2021
6	2018-19	153C	555395642	1436776	0.26		0.09	950440	3748890	2798450	1229247	27-09-2021
7	2019-20	143(3) r.w.s 153C	1359437117	2324759	0.17	913136	0.07	1206520	7290562	6084042	2787739	27-09-2021

8.11 Per contra Ld. CITDR, representing the revenue, on the issue of assessment completed u/s 143(3) instead of section 153C, vehemently supported the orders of revenue authorities.

8.12 We have considered the rival submissions and facts on records. Amidst the request of assessee to estimate the GP rate of assessee on a fair basis, taking figures of assessee's business for relevant years, without adjudicating remaining contentions may it be on legal aspect or on merits, we are of the considered view that the fair ration of GP to be adopted can be arrived by

taking the average of GP rate of years under consideration. As per chart furnished before us (extracted supra) the average comes to  $(0.20+0.20+0.20+0.18+0.07+0.26+0.17 / 7\text{yrs} = 0.18\%$  approx), so the justified rate of GP for estimating the profit of assessee would be 0.18% of the credit in bank account or a higher rate if already declared by the assessee.

8.13 Further, the contention of assessee, that the AY 2017-18 was subjected to scrutiny and returned income was accepted, so no estimation should be done, cannot be accepted, as this would lead to further verification of facts, that whether any incriminating material was surfaced during the search or not, while the legal grounds are not pressed by the ld. AR, thus are rendered being dismissed as withdrawn. Accordingly, the estimate of profit for AY 2014-15 to AY 2018-19 would be 0.18% or the declared GP by assessee whichever is higher shall be adopted. Ld. AO is directed accordingly, to give effect to this order after factual verifications.

**8.14 In result the appeal of assessee in 3950 to 3954/Mum/2025 for AY 2015-16 to 2018-19, are partly allowed for statistical purposes.**

**9. In combined result, ITA 3862, 3950 & 3955/Mum/2025 (AY 2013-14, 2014-15 & 2019-20) are allowed and ITA 3951 to 3954/Mum/2025 (AY 2015-16 to 2018-19) are partly allowed for statistical purposes, in terms of our aforesaid observations.**

Order pronounced in open court on 30.12.2025.

**Sd/-  
(AMIT SHUKLA)  
JUDICIAL MEMBER**

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

Mumbai; Dated 30/12/2025  
Disha Raut, *Stenographer*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**