

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI
BEFORE
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.2887/Del/2025
(Assessment Year 2021-22)

Deputy Commissioner of Income Tax, Delhi.	Vs.	E-Homes Infrastructure Pvt. Ltd. Room No.343, 3 rd Floor, ARA Centre, Jhandewalan Extn., New Delhi-110001 PAN-AABCE9129Q
(Appellant)		(Respondent)

C.O. No. 107/Del/2025
Arising out of ITA No.2887/Del/2025
(Assessment Year 2021-22)

E-Homes Infrastructure Pvt. Ltd. Room No.343, 3 rd Floor, ARA Centre, Jhandewalan Extn., New Delhi-110001 PAN-AABCE9129Q	Vs.	Deputy Commissioner of Income Tax, Delhi.
(Appellant)		(Respondent)

Appellant by	Shri Raj Kumar, CA and Shri J.P.Sharma, CA
Respondent by	Ms. Pooja Swaroop, CIT-DR

Date of Hearing	03.12.2025
Date of Pronouncement	07.01.2026

ORDER**PER M. BALAGANESH, AM:**

This appeal of the Revenue arises out of the order of the Learned Commissioner of Income Tax (Appeals)-30, New Delhi [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.30/10098/2020-21 dated 17.01.2025 against the order passed by Dy. Commissioner of Income Tax, Central Circle-31, New Delhi (hereinafter referred to as the 'Ld. AO') u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 30.12.2022. The assessee has also filed Cross Objections.

2. The revenue has raised the following grounds of appeal before us:-

"1. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in deleting the addition of Rs. 3,52,38,000/- u/s 28 of the Income Tax Act.

2. Whether the computation of the block period under Sections 153C and 153A of the Income Tax Act, as interpreted by the Hon'ble High Court in the case of Ojjus Medicare Pvt. Ltd., aligns with the legislative intent and procedural flexibility outlined in CBDT Circular No. 2/2018 dated 15 February 2018.

3. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in relying on the judgements in the cases of Ojjus Medicare Pvt. Ltd. & Jasjit Singh and ignoring the fact that these matters are currently pending adjudication in the Supreme Court. The revenue has filed SLP in the case of Ojjus Medicare Pvt. Ltd. (SLP No. 2856/2024) and review application, in the case of Jasjit Singh

4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in holding that block periods for assessment u/s 153C of the Income-tax Act, 1961, have to be calculated from the date of receipt of the books of accounts, documents or assets seized, by the jurisdictional AO of the non-searched person, even when this interpretation is contrary to the legislative intent since for the years after the search there can never be

incriminating seized material and as such assessment in years cannot be made u/s 153C of the Act?

5. That the order of the CIT (A) is perverse, erroneous and is not tenable on facts and in law.”

6. The grounds of appeal are without prejudice to each other.

7. The appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either on or before the final hearing of the appeal.”

3. We have heard the rival submissions and perused the materials available on record. A search and seizure operation under Section 132 of the Act was carried out in Hans Group of Cases by the Investigation Wing, New Delhi on 6-1-2021. One Mr. Parveen K. Jain was also covered in the said search operation. During the course of search and seizure action of Parveen K. Jain, there were certain seized assets and documents / digital data and information contained therein relate to Assessee herein. Accordingly, the AO of the searched person recorded his satisfaction dated 27-09-2022 that seized assets and documents / digital data and information contained therein relate to the Assessee herein, comprising of cloned data of Shri Parveen K. Jain's mobile I- Phone marked as Annexure A-5, which also contained certain image of agreement to sell in the WhatsApp chat between Parveen Kumar Jain and Shri Vaibhav Jain. Pursuant to this satisfaction note dated 27-09-2022 recorded by the AO of the searched person, the learned AO of the Assessee herein recorded satisfaction note under Section 153C of the Act for assessment years 2015-16 to 2021-22. A consolidated satisfaction note dated 30-09-2022 was recorded by the learned AO of the Assessee herein for initiating proceedings under Section 153C of the

Act. Hence, as far as the Assessee is concerned, the date of search becomes the date on which the documents/digital data and information was received by the AO of the Assessee. In this case, the satisfaction note of the searched person has been recorded on 27-09-2022 and the satisfaction note of the Assessee was recorded on 30-09-2022. Hence, the date of search qua the Assessee herein would be 30-09-2022 in view of the decision of Honorable Supreme Court in the case of CIT vs Jasjit Singh reported in 2023 (10) TMI 572 dated 26-09-2023 and the decision of Hon'ble Jurisdictional High Court in the case of PCIT vs Ojjus Medicare Private Limited and others reported in 2024 (4) TMI 268 (Del) dated 3-4-2024. For the assessment year 2021-22 pursuant to the regular return filed by the Assessee, notice under Section 143(2) of the Act was already issued on 30-6-2022 to the Assessee. Since proceedings on the Assessee is to be initiated under Section 153C of the Act pursuant to the satisfaction note recorded on 30-9-2022 for the Assessee considering the deemed date of search on the Assessee as 30-9-2022, the regular scrutiny assessment for assessment year 2021-22 which was pending as on 30-9-2022 gets abated. Hence, the notice under Section 143(2) of the Act dated 30-6-2022 gets abated and no regular assessment could be framed on the Assessee thereon for assessment year 2021-22. However, the Learned AO proceeded to frame the assessment under Section 143(3) of the Act for assessment year 2021-22 on 30-12-2022. In our considered opinion, as far as the Assessee herein is concerned, the date of search is 30-9-2022 which falls in assessment year 2023-24. Hence, as per the decision of

Hon'ble Delhi High Court in the case of Ojjus Medicare Private Limited referred supra, for assessment year 2023-24, assessment should be framed under Section 143(3) of the Act being the year of search and for the previous 6 years, assessment should be framed on the Assessee under Section 153C of the Act. Hence, for assessment year 2021-22, assessment should have been framed only under Section 153C of the Act and not under Section 143(3) of the Act. Since the assessment for assessment year 2021-22 has been framed in the instant case on the Assessee under Section 143(3) of the Act, the said assessment shall become void ab initio and deserves to be quashed and is hereby quashed.

4. The Learned CITA had rightly applied the decision of Hon'ble Supreme Court in the case of Jasjit Singh and the decision of Hon'ble Jurisdictional High Court in the case of Ojjus Medicare Pvt. Ltd., both referred supra, and had quashed the assessment for assessment year 2021-22. We do not find any infirmity in the said order of the Learned CITA. Accordingly, the grounds raised by the revenue are dismissed.

5. Since the entire revenue appeal is dismissed by quashing the assessment, the grounds raised by the assessee in its cross objections become academic and are hereby dismissed as infructuous.

6. In the result, the appeal of the Revenue is dismissed and Cross-Objection of the Assessee is dismissed as infructuous.

Order pronounced in the open Court on 07.01.2026.

Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

Dated: 07/01/2026

Pk/Sr. PS.

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI