

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : E : NEW DELHI

BEFORE SHRI VIMAL KUMAR, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITA No.5130/Del/2025
Assessment Year : 2021-22

White Orchid Hospitality (P) Ltd., Vs. DCIT,
306, Suneja Tower II, Central Circle-29,
Distt. Centre, Janakpuri, Delhi.
DESU Colony SO, West Delhi,
New Delhi- 110 058.

PAN: AACCW1923F

(Appellant)

(Respondent)

Assessee by	: Shri Vinod Kumar Bindal, CA; Ms Rinky Sharma, ITP & Shri Anmol Jha, Advocate
Revenue by	: Ms Amisha S. Gupt, CIT- DR
Date of Hearing	: 17.12.2025
Date of Pronouncement	: 09.01.2026

ORDER

PER VIMAL KUMAR, JM:

The appeal filed by the assessee is against the order dated 22.07.2025 of the Id. Commissioner of Income-tax (Appeals)-30, New Delhi [hereinafter referred to as the Ld. CIT(A)] u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of the assessment order dated 07.09.2022 of

the ld. AO/DCIT, Central Circle-29, New Delhi (hereinafter referred to as 'the ld. AO') u/s 153C/143(3) of the Act for Assessment Year 2021-22.

2. The facts in brief are that original return u/s 139 of the Act was filed on 22.12.2021 declaring the total income at Rs.nil. A search and seizure action u/s 132 of the Act was carried out on 14.10.2020 in the case of Mr. Manoj Kumar Singh, his associate Mr. Subhash Chander Gupta and various transacting parties. During the search proceedings, it was established that Shri Manoj Kumar Singh entered into unaccounted cash transactions with various persons and entities. At the residential premises/locker of Shri Subhash Chander Gupta, i.e., #145, Bahera Enclave, Paschim Vihar, New Delhi, during the course of search proceedings, some incriminating materials were found in the name of Mrs. Manya Gupta and seized. The case of the assessee was centralized to Central Circle-29, New Delhi, vide order dated 22.12.2020 by the CIT, Central, New Delhi. Notice u/s 143(2) of the Act dated 19.04.2022 was issued. A detailed questionnaire u/s 142(1) of the Act was issued on 22.04.2022. A show cause notice was issued on 15.06.2022. In response, the assessee filed necessary submissions through ITBA portal on 16.08.2022. During the search proceedings, agreement to sell dated 27.07.2020 between the assessee M/s White Orchid Hospitality Pvt. Ltd., and Mrs. Manya Gupta was found in original from the residence of Shri Subhash Chander Gupta and seized as page No.86-89 of Annexure A1. As per this agreement to sell, total sale consideration was fixed at

Rs.8,43,89,760/- for the sale of property at Plot No.J-48, South City-1, Gurugram and the buyer Mrs. Manya Gupta had paid Rs.2.50 crore as earnest money to the seller M/s White Orchid Hospitality Pvt. Ltd. out of which Rs.2 crore was paid in cash.

3. A satisfaction note for opening the proceedings u/s 153C of the Act was provided vide letter dated 01.06.2022. On completion of the proceedings, the ld. AO, vide order dated 07.09.2022, made addition of Rs.2 crore u/s 69 of the Act. Against the order dated 07.09.2022 of the AO, the appellant-assessee preferred an appeal before the Ld.CIT(A) which was dismissed vide order dated 22.07.2025.

4. Being aggrieved, the appellant assessee preferred the present appeal with the following grounds:-

“1.The CIT(A) erred in law and on facts in confirming the illegal assessment order passed by the AO u/s 153C r.w.s. 143(3) of the Act whereas as per the legal mandate after initiating proceedings u/s 153C of the Act, an assessment order can only be passed in accordance with the provisions of the section 153A of the Act and not u/s 143(3) of the Act. Thus, the impugned assessment order is bad in law at the threshold being void ab initio and must be quashed.

2. The impugned assessment order is based on the void ab initio satisfaction recorded by the AO for the AYs 2015-16 to 2021-22 u/s 153C of the Act, in clear violation of the law, though there was no incriminating material at all gathered for any of the assessment years much less for the AY 2021-22 suggesting escapement of income, demonstrating complete lack of application of mind by the AO to initiate proceedings u/s 153C of the Act and which must be quashed.

3. The CIT(A) erred in not declaring lack of proper and legal satisfaction notes by the AO in two capacities besides no separate satisfaction note for each of the AYs was made and recording a combined

satisfaction note without identifying as to how the material relied therein pertained to all the AYs, demonstrates mechanical satisfaction with complete non-application of mind as a borrowed context and therefore, must be quashed.

4. *The CIT(A) erred in law and on facts in confirming the assessment order passed without allowing mandatory cross examination of the persons from whom not only the material relied on in the impugned assessment order was seized but also whose recorded statements have been relied for the purpose of assessment. Thus, the assessment order is void ab initio and must be quashed as it fails to meet the well laid down principles of natural justice.*

5. *The CIT(A) erred in law and on facts in confirming the addition of Rs 2,00,00,000/- u/s 69A of the Act, holding that the assessee had received cash against sale of a property though no such actual sale was undertaken based on the said incomplete agreement not signed by the buyer. Thus, no addition could be made in respect of the cash received in any manner which transactions the Revenue itself has failed to prove in the assessment order. Thus, the addition should be deleted.*

6. *The CIT(A) erred in law and on facts in confirming invocation of the provisions of section 69A r.w.s. 115BBE of the Act in respect of the said unproven cash transaction (i) without understanding as to the situs of application of the section 69A of the Act which is not to be applied on seized information / documents but only on detection of valuable assets including money; (ii) In any case, since the source of cash received by the assessee stood mentioned in the alleged material, the same could only considered as an advance payment of the sale consideration of the property which actually did not fructify so as to bring it within the scope of taxation that too during the relevant period; (iii) because, as per information on record the advance of Rs 50 lakhs mentioned therein was also refunded to Mrs Manya Gupta later and no sale deed of the said plot was ever executed in her favour; (iv) Thus, the said addition must be deleted as is based on an incorrect appreciation of the law.*

7. *The CIT(A) erred in law and on facts in not appreciating that even otherwise the said plot was not agreed to be sold by the assessee to Mr Subhash Chand Gupta but to an independent assessee Mrs Manya Gupta and any information gathered from her including her statement or any was not confronted to the assessee, making the entire assessment proceedings a mockery of the law. Thus, the impugned assessment needs to be quashed.*

8. *The authorities below deliberately ignored that the said plot bearing no. J 48, South City I, Gurugram was actually later on sold jointly to Ambey Realtech LLP and Mrs Girija Ravi on 11/09/2024 for Rs*

5,50,00,000/-, a copy of which was placed before CIT(A) also and who failed to confirm the same from the buyer as to what was the actual sale consideration of the property given by the buyer to the assessee company.

9. The AO erred in law and on facts before concluding the receipt of cash against sale consideration of the property without bringing on record comparable instances to even remotely suggest a possibility of any such undisclosed consideration, particularly when the agreed sale consideration of the property was more than the prevalent value of the property as on the actual date of sale. Thus, the addition made on surmises and conjectures deserves to be deleted.

10. The CIT(A) erred in law and on facts in not allowing business loss of Rs 1,72,166/- for the period under consideration at its treatment as per law. The appellant craves the leave to add, substitute, modify, delete or amend all or any ground of appeal either before or at the time of hearing.”

5. The Id. Authorised Representative of the appellant-assessee submitted that the assessee-company got incorporated on 18/04/2018, a date falling in the period relevant to AY 2019-20 only but the impugned satisfaction notes in the two respective capacities by the AO, were recorded on 18/04/2022 mechanically without verification of the facts on her records and application of mind for the 7 AYs 2015-16 to 2021-22 (company in existence only for the 3 AYs 2019-20, 2020-22 and 2021-22 out of the seven AYs as above) and that too when only one document allegedly relevant to the AY 2021-22 was found in an income-tax search elsewhere as is mentioned in the satisfaction notes explicitly. This fact is very much mentioned in the computation of the assessable income made for the return of income filed on 22/12/2021 at the PB page no. 45, besides on the PAN data base where date of incorporation of the company is explicitly mentioned. Thus, the impugned satisfaction notes are not only void ab initio but must be

quashed as has been held in Sunil Kumar Sharma confirmed by the Hon'ble Apex Court in [2024] 168 taxmann.com 77 (SC) and affirming the Hon'ble Karnataka High Court in [2024] 159 taxmann.com 179 (Karnataka).

5.1 A search and seizure action u/s 132 of the Act was carried out on 14/10/2020 in the case of Mr Manoj Kumar Singh and his associates including Mr Subhash Chander Gupta from whose premises the alleged incriminating document was found. The two respective satisfaction notes u/s 153C dated 18/04/2022 by the AO as AO of the assessee as well as AO of the person searched being the same AO were recorded mentioning only one seized document at page nos. 86-89 of the Annexure A-1 from the residence of Mr Subhash Chander Gupta. The impugned agreement to sell dated 27/07/2020 (PB page no. 145-148) in respect of a property agreed to be sold by the assessee to Ms Manya Gupta (daughter in law of Mr Subhash Chnader Gupta) seized from Mr Subhash Chander Gupta as per the respective satisfaction notes, though was not at all signed by the buyer. Therefore, it should be treated as a dumb document.

5.2 The Cancellation of Agreement to sell as above with Ms Manya Gupta with a copy of the demand draft of Rs 50,00,000/- (refund of advance) and was given to the AO as well as the CIT(A) but no cognizance of the same was taken by any of them. Evidence as admitted by them at CIT(A)'s order para 27 PB page no. 386, by the AO in the assessment order at PB page no. 427, at page 91

being the SCN dated 15/06/2022 clearly show that the same was on their respective records. Reply dated 10/05/2022 filed by the assessee to the AO at PB page no. 38 para 28 demonstrates the same explicitly.

5.3 The first notice issued to the assessee for this AY 2021-22 was u/s 143(2) of the Act that too, was issued the very next date i.e. 19/04/2022 (PB page no. 2-9) mentioning only the section 143(3) and no notice at all u/s 153C of the Act was ever issued for this AY as is also not at all mentioned in the assessment order for this AY 2021-22 but which was specifically mentioned in the assessment orders / notices u/s 153C for the other 6 AYs 2015-16 to 2020-21.

5.4 Notice issued u/s 142(1) of the Act on 22/04/2022 for this AY at PB page no. 10-22 relevant page no. 11 top para, where the AO has herself admitted that no notice u/s 153C of the Act was issued for this AY 2021-22 as it has been mentioned therein that the assessments for the AYs 2015-16 to 2020-21 are to be completed u/s 153C and for this AY 2021-22 u/s 143(3). Thus, undisputed fact established that no notice u/s 153C was ever issued for this AY but the impugned assessment has been passed without assuming the mandatory jurisdiction by mandatorily issuing a notice u/s 153C r.w.s. 153A of the Act for this AY as were issued for the other assessment years from AY 2015-16 to 2020-21. Thus, the impugned assessment order is void ab initio in absence of issuing the mandatory notice to assume jurisdiction as per law as has been held by the Hon'ble Apex

Court in CIT vs Laxman Das Khandelwal 2019-TIOL-345-SC-IT dated 13/08/2019 (PB page no. 267-271) relevant page no. 270 paras 9 and 10.

5.5. Ld. AO was also well informed by the assessee vide the letter dated 16/05/2022 submitted on 19/05/2022 (PB page no. 311) that the assessee company was incorporated on 18/04/2018 and no proceedings before the AY 2019-20 could at all be initiated. Yet, the AO in her anxiety issued SCNs on 15/06/2022 for the earlier 4 AYs 2015-16 to 2018-19 also (PB page nos. 438 to 449) in blatant misuse of the law.

5.6. Even on the SCN dated 15/06/2022 issued for the AY 2021 -22 in the DIN and notice no. ITBA section 143(3) is mentioned and not the section 153C (PB page no. 90) as is mentioned in the SCNs issued for the other 6 AYs filed at PB page nos. 438-455. A declaration of Mr Rajan Narula, the director of the assessee to this effect has been filed at PB page no. 345-346.

5.7 Moreover, the jurisdictional issue can be raised first time by an assessee at any stage of the proceedings as has been held by the Hon'ble Apex Court in Kanwar Singh Saini vs Delhi High Court vide order dated 23/09/2011 (2012) 4 SCC 307 (PB page nos. 156-168) relevant page no. 163 para 13.

5.8. The assessment order for AY 2021-22 was passed u/s 153C/143(3) of the Act though no assessment order can otherwise be passed under the machinery provision of the section 153C but only u/s 153A of the Act which is

the substantive provision to make an assessment post any income-tax search upto 31/03/2021. A detailed note on this legal issue filed is at PB Page nos. 317-344.

5.9. In *Ojjus Medicare Pvt Ltd* [2024] 161 taxmann.com 160 (Delhi) (PB page no. 169-244), the Hon'ble jurisdictional Delhi High Court has held in such a case the jurisdiction can only be assumed to initiate assessment proceedings by issuing a notice u/s 153C as the impugned satisfaction note was recorded on 18/04/2022 (FY 2022-23 and thus relevant to the AY 2023-24) and not otherwise which admittedly was never ever issued for this AY by the AO though the assessment order was passed u/s 153C /143(3), showing that the AO was well aware of the law that an assessment order could only be passed u/s 153C r.w.s. 153A of the Act without any reference to the section 143(3) of the Act.

5.10 Six notices issued u/s 153C r.w.s. 153A on 19/04/2022 for the six AYs 2015-16 to 2020-21 only, being the same date 19/04/2022 as of the notice u/s 143(2) for this AY 2021-22, were received by the company. The following assessment orders for those assessment years were passed by the DCIT, Central Circle-29, New Delhi admitting that the impugned satisfaction notes were admittedly prepared without verification of the facts of the assessee on her records.

Sl. No.	A.Y.	Sections of the order	Date of the order	PB page no.
1.	2015-16	Company not in existence as incorporated on 18/04/2018	No assessment order	N.A.
2.	2016-17	Do	Do	N.A.
3.	2017-18	Do	Do	N.A.
4.	2018-19	Do	Do	N.A.
5.	2019-20	153C	12/09/2022	311A
6.	2020-21	153C / 143(3)	07/09/2022	315
7.	2021-22	153C / 143(3)	07/09/2022	417

6. The ld. DR submitted that during the search, agreement to sell dated 27.07.2020 was seized. The property was agreed to be sold by the assessee to Ms Many Gupta, daughter in law of Shri Subhash Chander Gupta. The Ld. AO and the Ld. CIT(A) have relied upon the agreement to sell. As per the provisions of section 153C of the Act, the satisfaction note specifically referred to the agreement to sell. Reliance was placed on the order in the case of Indian National Congress that common satisfaction note is acceptable. The assessee had given no evidence regarding the refund of the earnest money.

7. From examination of record in the light of the aforesaid rival contention, it is crystal clear that the assessee company was incorporated on 18.04.2018. The satisfaction note dated 18.04.2022 at page Nos.80 to 84 refers to seven assessment years 2015-16 to 2021-22 on the basis of agreement to sell dated 27.07.2020 relevant to assessment year 2021-22.

7.1 Hon'ble High Court of Karnataka in case titled as "DCIT vs. Sunil Kumar Sharma" reported as (2024) 159 taxmann.com 179 (Karnataka) in para No.47 to 51 has observed as under:-

"47. The learned Single Judge had assessed the entire material available on record and so also closely scrutinized the materials as well as the contentious contentions taken by the learned Addl. Solicitor General on behalf of the respondent / Revenue and the reliances facilitated by the learned Senior Counsel Shri Kiran S. Javali for petitioners and thus had answered the points for determination in favour of the petitioners, who had initiated the writ petitions under Article 226 of the Constitution of India. Thus, the learned Single Judge had allowed the Writ Petitions No.9937, 9938 and 9939 of 2022 and quashed the impugned Notices dated 21st August, 2019 and further proceedings thereof. The matter was remanded to the respondent-Revenue to reconsider the issue afresh in terms of the discussion made above; Further, Writ petition No.9945 of 2022 was allowed and order dated 03rd May, 2022 passed in Appeal No. CIT(A)-11/BNG-10701/2019-20 stood quashed. The Respondent No.1 was directed to reconsider the Appeal filed by the petitioner therein and to dispose of the same in accordance with law after providing an opportunity of hearing to both the sides. Further, the learned Single Judge had allowed Writ Petition No.9946 of 2022 and proceedings initiated under Section 153C of the Act culminating in issuance of Notice dated 22nd August, 2019 were quashed and further proceedings thereof were quashed by remanding the matter to the respondent-Revenue to reconsider the issue afresh in terms of the discussion made above.

48. In the given facts and circumstances of the matter, it is relevant to refer to the case of NISHANT CONSTRUCTION (P) LTD. Vs. ACIT (ITA NO.1502/AHD/2015), wherein it is held that, in the absence of any corroborative evidence, loose sheet can at the most be termed as "dumb document" which did not contain full details about the dates, and its contents were not corroborated by any material and could not be relied upon and made the basis of addition. Reliance can also be placed on the judgment of the Panaji Bench of ITAT in the case of ABHAY KUMAR BHARAMGOUDA PATIL vs. ASSTT. CIT ((2018) 96 taxmann.com 377)), wherein the judgment of the Apex Court was relied upon.

49. It is further relevant to refer to a Co-ordinate Bench decision of this Court rendered in the case of PRINCIPAL COMMISSIONER OF INCOME-TAX vs. SMT. G. LAKSHMI ARUNA ((2023) 150 taxmann.com 107 (Karnataka)) 31.03.2023, in which judgment, this Court has extensively addressed the scope of Sections 153C read with Section 153A of the Income Tax Act, 1961. The headnote of the said judgment reads thus:

“Section 153C, read with section 153A, of the Income-tax Act, 1961 – Search and seizure – Assessment of any other person (Satisfaction note) – Assessment year 2011-12 – Whether assessment year relevant to financial year in which satisfaction note is recorded under section 153C, will be taken as year of search for purposes of clauses (a) and (b) of section 153A(1) by making reference to first proviso to section 153C(1) – Held, yes – Whether period of 6 years stipulated in section 153C has to be construed with reference to date of handing over of documents to Assessing Officer of assessee and not year of search – Held, yes – Whether recording of satisfaction note is pre-requisite and same must be prepared by Assessing Officer before he transmits records to other Assessing Officer who has jurisdiction over such other person under section 153C – Held, yes – On 25.10.2010, a search under Section 132 was carried in case of one ‘R’ and various documents belonging to assessee were found and seized – Consequently, Assessing Officer of searched person issued notice under section 153C against assessee for assessment years 2005-2006 to 2010-2011 and a notice under section 143(3) for assessment year 2011-12 – Assessments were concluded and income of assessee was assessed – Tribunal set aside assessment order and held that there was no satisfaction recorded by Assessing Officer of searched person, which is mandatorily required for issuing a notice under section 153C – Whether since satisfaction note was not recorded by Assessing Officer of searched person, Tribunal had rightly quashed assessment on account of lack of jurisdiction – Held, yes (paras 45 and 49) (in favour of assessee)”

50. In the instant case, the first issue raised by the Revenue is as regards the addition of income made by the Assessing Officer based on loose sheets found in the house of a third party. However, we find that the Revenue has not established the said loose sheets to be considered as evidence in law by producing corroborative evidence supported by judgments and findings. Further, since the statement made by Shri K. Rajendran under Section 132 of the IT Act is later retracted by him by filing an affidavit, the statement given by him does not hold any evidentiary value.

51. The notice issued under Section 153C of the IT Act in respect of the Assessment year 2018-19 is not applicable, which is also supported by various judgments of the High Court. Further, the notice as regards the Assessment years 2015-16, 2016-17 and 2017-18 are also not applicable, as the total addition of income were made on the basis of loose sheets. Further, the panchanama or mahazar of all the loose sheets said to have been seized from the house of Shri Rajendran, are now unavailable and the learned counsel for the Revenue has no answer for the same. On these premise, the assessment order made for the Assessment years 2015-16, 2016-17, 2017-18 and 2018-19 requires to be quashed.”

7.2 In view of above material facts and well settled principle of law, it is held that the notice dated 19.04.2022 u/s 143(2) for AY 2021-22, page 2-9 of paper book on basis of agreement to sell dated 27.07.2020 page No.145 to 148 of PB seized during search and seizure action dated 14.10.2020 on which assessment order dated 07.09.2022 was passed being unsustainable in law is quashed. Accordingly, grounds of appeal No.1 and 2 are allowed.

8. Grounds of appeal No.3 to 10 being not pressed are left open.

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 09.01.2026.

Sd/-

(RENU JAUHRI)
ACCOUNTANT MEMBER

Dated: 09th January, 2026.

Sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi