

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 209/Del/2025
(Assessment Year: 2017-18)

Vidur Chharia, R-13/9, Rajnagar, new Raj Nagar, SO, Ghaziabad, UP	Vs.	DCIT/ACIT, Central Circle, Ghaziabad
(Appellant)		(Respondent)
PAN: AHHPC6368F		

ITA No. 208/Del/2025
(Assessment Year: 2017-18)

Rakesh Chharia & Sons HUF, R-13/9, Rajnagar, new Raj Nagar, SO, Ghaziabad, UP	Vs.	DCIT/ACIT, Central Circle, Ghaziabad
(Appellant)		(Respondent)
PAN: AAAHR8911H		

ITA No. 207/Del/2025
(Assessment Year: 2017-18)

Pole-Ads Advertising Pvt. Ltd, 2, Gujarat Vihar, Vikas Marg, Nirmal S. O. East Delhi,	Vs.	DCIT/ACIT, Central Circle, Ghaziabad
(Appellant)		(Respondent)
PAN: AABCP9319B		

Assessee by :	Shri Akhilesh Kumar, Adv Shri Vipin Garg, Adv Shri Govind Agarwal, CA
Revenue by:	Shri Jitender Singh, CIT DR
Date of Hearing	25/11/2025
Date of pronouncement	13/01/2026

O R D E R

PER BENCH:

1. The appeal in ITA No. 209/Del/2025 for AY 2017-18, arise out of the order of the Commissioner of Income Tax (Appeals)-3, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. CIT(Appeals) Noida-3/10022/2016-17 dated 19.12.2024 against the order of assessment passed u/s 153C of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 19.12.2024 by the Assessing Officer, DCIT, Central Circle, Ghaziabad (hereinafter referred to as 'Id. AO').

2. All these three appeals have identical issues involved and hence they are heard together and disposed of by this common order for the sake of convenience.

3. With the consent of both the parties, the appeal of the assessee in the case of Mr. Vidur Chharia Vs. ACIT in ITA No. 209/Del/2025 for AY 2017-18 is taken up for adjudication first.

4. The assessee has raised the following grounds:-

1. Because learned Id. Commissioner of Income Tax (Appeals) further erred in upholding the validity of notice and u/s 153C as:-

a. Notice u/s 153C is based on consolidated satisfaction note for AY 2014-15 to AY 2020-21 contrary to law of land as pronounced by apex court.

b. Notice u/s 153C is issued beyond the parameters of that provisions whereby neither Id AO had any seized material which could have any bearing on the income of the assessee nor he demonstrated so thus notice is without requisite satisfaction.

c. Notice is based on satisfaction note not bearing any DIN as mandated.

2. *Because notice u/s 153C is void ab initio thus, assessment proceedings and consequent order is illegal as*

a. *No satisfaction note/ notice u/s 153C is issued by JAO to whom the seized material was handed over i.e. DCIT, Cir2(1)(1), GZb in terms of Section 153C(1) of the Act.*

b. *ACIT, Central Circle, Gzb, assumed jurisdiction based on order u/s 127 issued without communication any reason for such transfere³r and also without communication of such order.*

3. *Because, without prejudice to above, in alternative learned Commissioner of Income Tax (A), manifestly erred in sustaining addition of 70,00,000/- u/s 68 r.w.s. 115BBE, being the same is beyond the scope and mandate of provision of Section 68, whereby amount is not credited to any books of account.*

4. *Because, without prejudice to above, in alternative, even merits, learned Commissioner of Income Tax (A), erred in sustaining rejection of an interest-bearing loan transaction entered/repaid through banking channel, squared up during the year itself and supported with all the possible and required evidences none of which are rejected by revenue that too without any evidence in support of addition. He further failed to appreciate the that transaction is accepted under original scrutiny by specific mention in the order u/s 143(3) dated 19.12.2019.*

5. *Because, learned lower authority manifestly wrong in solely relying on a statement recorded behind the back of assessee / AO that too without providing any opportunity to cross the same and in any case said statement specifically denied the knowledge of questioned transaction beside retracted later on, thereby addition was without any material.*

6. *Because, learned lower authority further erred in not appreciating the fact that assessee fully discharged onus lay upon him and AO failed to discharge onus shifted upon him and addition is made on flimsy basis merely on conjectures and surmises against all the cannons of law.*

7. *Because, learned lower authority further erred in sustaining the disallowance of interest of Rs. 5,35,932/- as non-business expenditure whereas assessee carry no business during the year and claimed said interest under the head 'house property u/s 24(b)'.*

8. *Because, learned lower authority further erred in sustaining imaginative addition of alleged commission of Rs. 2,10,000/- u/s 69C of Act against all the known parameters of law."*

5. Out of aforesaid grounds, the assessee fairly stated that Ground Nos. 1(a) and 2(a) to be construed as additional grounds as they are being raised for the first time before the tribunal. These additional grounds go to the root of the matter and are purely legal in nature and the facts relevant for its adjudication are already on record, hence, these additional grounds are admitted and taken up for adjudication along with original grounds.

6. The Id AR before us stated that Ground Nos. 1(c) and 2(b) are not pressed by the assessee for which necessary endorsement has duly been made in our file. Accordingly, Ground Nos. 1(c) and 2(b) are hereby dismissed as not pressed.

7. We have heard the rival submissions and perused the material available on record. The return of income for AY 2017-18 was filed by the assessee declaring total income of ₹21,34,900/- on 24/07/2017. A search and seizure action u/s 132 of the Act was conducted on 18.10.2019 in the case of Alankit Group. According to the revenue, various incriminating materials belonging to the assessee were found and seized. Subsequently, the case of the assessee was centralized and proceedings u/s 153C of the Act were initiated on the assessee herein. Satisfaction note for initiating proceedings u/s 153C of the Act was recorded for AYs 2014-15 to 2020-21 on 26.06.2022 by the Assessing Officer of the searched person. The materials found and seized in the search of Alankit Group from the laptop of Shri Sunil Kumar Gupta were handed over to Assessing Officer of the assessee i.e. DCIT, Circle, 2(1)(1), Ghaziabad during May 2022 to August 2022. The evidence in this regard are enclosed in pages 178 to 179 of the Paper Book containing the letters addressed by DCIT, Circle-2(1)(1), Ghaziabad to ACIT, Central Circle, Ghaziabad, dated 30.11.2022, wherein this fact of handing over of documents were mentioned. Based on the

materials handed over, the Assessing Officer of the assessee i.e. ACIT, Central Circle, Ghaziabad recorded a combined satisfaction note for AYs 2014-15 to 2020-21 on 03.08.2023 for assessee for initiating proceedings u/s 153C of the Act. The said satisfaction notes recorded qua the assessee are enclosed in pages 118 to 119 of the paper book.

8. During the search and seizure proceedings of Alankit Group, from the laptop of Sunil Kumar Gupta, a confirmation / ledger account of Diwakar Commercial Pvt. Ltd qua the loan transactions of the assessee was found. The said confirmation/ledger account depicted loans received from Diwakar Commercial Private Limited (DCPL) by the assessee during the year under consideration and repaid during the year under consideration with interest. It is pertinent to note that DCPL is a Non-Banking Financial Company (NBFC) duly registered with Reserve Bank of India (RBI) from 21.09.2001. DCPL is an entity belonging to Alankit Group. The assessee had borrowed unsecured loan of ₹70 lakhs from DCPL during the year under consideration which are already reflected in the regular books of account of DCPL. This confirmation/ledger found from the laptop of Shri Sunil Kumar Gupta containing the loan transaction of the assessee with DCPL, was sought to be treated as incriminating material by the assessing officer of the searched person which prompted him to forward the relevant document to the AO of the assessee. The AO of the assessee had received all such documents i.e. confirmation/ledger account containing the loan transactions of DCPL with the assessee, issued notice u/s 153C of the Act pursuant to combined satisfaction note recorded for AYs 2014-15 to 2020-21 dated 3.8.2023 after transfer of jurisdiction vide order u/s 127 of the Act dated 24.11.2022. The following facts are disputed and indisputable: –

- a. Assessee was regularly assessed to income tax by DCIT, Circle-2(1)(1), Ghaziabad, who was the Jurisdictional Assessing Officer (JAO) of the assessee.

- b. The regular return of income for AY 2017-18 was filed by the assessee with JAO.

- c. The assessee had borrowed loans of ₹70 lakhs from DCPL and repaid the same with interest of ₹5,35,932 to DCPL during the FY 2016-17 relevant to AY 2017-18.

- d. The loans were borrowed through regular banking channels and repaid through regular banking channels.

- e. The regular assessment was completed u/s 143(3) of the Act for AY 2017-18 on 19.12.2019, determining the total income at ₹36,61,566/- after making an addition of ₹15,26,666/- on account of loan transaction from Mr. Rakesh Chharia. It is pertinent to note that while framing this scrutiny assessment, the loan received by the assessee from DCPL was duly subjected to examination and enquiries by the AO and the Id AO was convinced about the same and accepted the loan from DCPL as genuine to have fulfilled all the three necessary ingredients of Section 68 of the Act, which is evident from the fact that no addition was made by the AO u/s 68 of the Act in

respect of loan received from DCPL, despite the fact that this scrutiny assessment was completed after the search action was carried out on 18.10.2019 on Alankit Group. In other words, the search in Alankit Group was carried out on 18.10.2019 and the scrutiny assessment of the assessee for AY 2017-18 was completed on 19.12.2019 u/s 143(3) of the Act by DCIT, Circle-2(1)(1), Ghaziabad (JAO).

f. The search materials from the laptop of Shri Sunil Kumar Gupta was handed over by the Assessing Officer of the searched person to DCIT Circle-2(1)(1), Ghaziabad (JAO) of the assessee during the period May 2022 to August 2022.

g. The case of the assessee was transferred from DCIT, Circle-2(1)(1), Ghaziabad to ACIT, Central Circle, Ghaziabad vide order passed u/s 127 of the Act dated 24.11.2022. The evidence in this regard is enclosed in pages 173 to 175 of the Paper Book.

h. The combined satisfaction note for initiating proceedings u/s 153C of the Act qua the assessee for AYs 2014-15 to 2020-21 was recorded on 03.08.2023 by ACIT, Central Circle, Ghaziabad.

9. For the sake of convenience, the satisfaction note recorded qua the assessee are reproduced herein: –



**OFFICE OF THE
ASST. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE,
ROOM NO. 229, 2ND FLOOR, C.G.O. COMPLEX – I,
KAMALA NEHRU NAGAR, HAPUR CHUNGI, GHAZIABAD**

**SATISFACTION NOTE TO INITIATE PROCEEDINGS U/S 153C READ WITH
SECTION 153A OF THE INCOME ACT, 1961 IN THE CASE OF
SH. VIDUR CHHARIA
HAVING PAN NO. AHHPC6368F**


A search & seizure operation u/s 132 of the Income Tax Act, 1961 was conducted at the premises of persons/parties comprising to M/s Alankit Group of cases on 18/10/2019 by issuing warrants of authorization u/s 132(1) of the Income Tax Act, 1961 and during the course of search operation, various incriminating documents/material and other valuable articles were found and seized. During the course of search & seizure operation conducted at the residential premises 3584/4, Narang Colony, Gali No. 04, Tri Nagar, Delhi of Sh. Alok Kumar Agarwal, Sh. Ankit Agarwal, M/s Alankit Limited & M/s Alankit Assignments Limited belonging to M/s Alankit Group of cases, a HP laptop was found and ultimately seized as Annexure – A – 31. From the said laptop, 09 ledgers accounts in the name of Sh. Sudhir Kumar Gupta as Sudhir Gupta, Sudhir, Sudhir Gupta-New, Sudhir Gupta-Old A/c, Sudhir-ALCL, Sudhir A/c Puri, Sudhir Gupta-A/c Com, Sudhir-AHL & Sudhir Gupta-NMC were extracted and having perused/examined of these ledgers accounts, it was found that Sh. Vidur Chharia having PAN No. AHHPC6368F has made the following transactions with persons/parties belonging to M/s Alankit Group of cases.

Beneficiary	F.Y.	A.Y.	Particulars as per Ledger	Amount debited in Ledger	Amount credited in Ledger
Sh. Vidur Chharia	2016-17	2017-18	Axis Bank-Diwakar	70,00,000	75,35,932

But it is pertinent to mention here that on being confronted the above stated ledger accounts & transactions to Sh. Sunil Kumar Gupta, who was present at the time of search and in whose laptop the above stated ledgers & transactions were found, he, in his statement recorded u/s 132(4) of the Income Tax Act, 1961 did not explain the nature of the said ledgers accounts & transactions, along with any documentary evidences. Since, during the course of search & seizure operation, Sh. Sunil Kumar Gupta had failed to explain the

nature of above stated ledgers accounts & transactions, along with any documentary evidences, hence, all the above stated transactions made by **Sh. Vidur Chharia having PAN No. AHHPC6368F** with persons/parties belonging to M/s Alankit Group of cases are found to be unexplained and it is deduced that **Sh. Vidur Chharia having PAN No. AHHPC6368F** has entered the above stated transactions in his books of accounts as accommodation entries.

Therefore, in view of the provision of section 153C read with section 153A of the Income Tax Act, 1961, I am satisfied that proceedings u/s 153C read with section 153A is required to be initiated in the case of **Sh. Vidur Chharia having PAN No. AHHPC6368F** as the above stated entries/transactions, contained in the above stated ledgers accounts which were found in the books of account of Sh. Alok Kumar Agarwal, Sh. Ankit Agarwal, M/s Alankit Limited & M/s Alankit Assignments Limited belonging to M/s Alankit Group of cases during the course of search operation conducted u/s 132 of the Income Tax Act, 1961 at their premises 3584/4, Narang Colony, Gali No. 04, Tri Nagar, Delhi, pertain to the assessee **Sh. Vidur Chharia having PAN No. AHHPC6368F** and have bearing on the determination of total income of **Sh. Vidur Chharia having PAN No. AHHPC6368F**. Therefore, it is a fit case for issuance of notices u/s 153C of the Income Tax Act, 1961 from A.Y. 2014-15 to A.Y. 2020-21.


(Ashish Shukla)

Asst. Commissioner of Income Tax
Central Circle, Ghaziabad

10. The aforesaid satisfaction note only states that from the laptop of Mr Sunil Kumar Gupta, certain transactions with DCPL and assessee were found for which Shri Sunil Kumar Gupta could not give proper explanation. Accordingly, it was concluded by the AO of the assessee that the loan transaction of the assessee from DCPL were mere accommodation entries. At the outset, we find that assessee had furnished the details of DCPL, being the NBFC duly registered with RBI, its audited financial statements for the year ended 31.03.2017, confirmation of balance from the DCPL together

with its PAN, bank statements of DCPL evidencing the availability of funds for advancing unsecured loans to assessee through regular banking channels and the receipt of loan back by DCPL with interest from the assessee. These documents are enclosed in pages 185 to 212A of the Paper Book. From the perusal of the aforesaid documents, we find that DCPL has shareholders funds of ₹51.63 crores as on 31.03.2017 and ₹52.66 crores as on 31.03.2016. Further, the DCPL has operational income of ₹11.98, crores and ₹13.08 crores for the years ended on 31/03/2017 and 31/03/2016 respectively. DCPL had disclosed net profit before tax of ₹1.55 crore for the year ended 31.03.2017 as against ₹9.68 lakhs for the year ended 31.03.2016. We also find that the loans has been advanced to the assessee company in the regular course of lending business of DCPL through banking channels and DCPL had indeed earned an interest income of ₹5,35,932/- from assessee . DCPL had also given a confirmation dated 01.04.2017 to the assessee confirming the loan transaction given by them, repayment of loan receipt from assessee during the financial year 2016-17 itself with interest and that the said confirmation/ledger account was indeed found at the time of search of Alankit Group on 18.10.2019 in the laptop of Shri Sunil Kumar Gupta. All these documents clearly established that assessee had duly proved the 3 ingredients of Section 68 of the Act with regard to loan received from DCPL and repayment made thereon, duly explaining the nature and source of credit thereon, within the meaning of Section 68 of the Act. Hence, there is absolutely no reason for the revenue to treat the said loan transaction with the DCPL as accommodation entry warranting addition u/s 68 of the Act. Hence, we have no hesitation to delete the addition made u/s 68 of the Act in respect of loan received in the sum of ₹70 lakhs by holding that the same cannot be treated as unexplained credit. Since, the loan is treated as genuine, the interest paid on said loan amounting to

₹5,35,932/- deserves to be allowed as deduction. Since, the loan is treated as genuine, there is no question of making any addition on account of alleged commission expenditure u/s 69C of the Act for Rs. 2,10,000/- and the same is hereby directed to be deleted. Hence, on merits, additions made in the search assessment u/s 153C of the Act are hereby deleted.

11. Further, we find that the relevant materials that were handed over which was found from the laptop of Shri Sunil Kumar Gupta, for which Sunil Kumar Gupta was examined by Assistant Director of Income Tax, Unit-7(3), New Delhi on 19.10.2019 (during the continuation of search which commenced on 18.10.2019). When Mr Sunil Kumar Gupta was examined on the content found in the laptop, no query was raised with regards to DCPL or the assessee as apparently the name of the assessee was not mentioned anywhere. In fact, Shri Sunil Kumar Gupta was specifically asked vide Question No. 19, dated 19.10.2019 with regard to various annexures seized from his laptop, asking him to clearly identify which are accounted and unaccounted transactions, which were responded to by him in a tabular form giving the details. In this statement, he never stated that the loan transactions of DCPL with assessee are unaccounted by either party. Hence, it could be safely concluded that the laptop data of Shri Sunil Kumar Gupta with DCPL does not contain any incriminating material at all, as the same had been already reflected in the bank statements of both DCPL as well as the assessee.

12. However, Shri Sunil Kumar Gupta vide Question No. 13 was specifically asked the transactions of certain companies i.e. Nutshell Vyapaar Private Ltd, Mahavir Fincon Pvt Ltd, Atoll Vyapaar Pvt Ltd, Rasraj Marketing Pvt. Ltd, Diwakar Commercial Pvt Ltd, Newwave Commercial Private Ltd and cash transactions carried out thereon in lieu of issuance of cheques or

acquisition of companies. In response thereto, Shri Sunil Kumar Gupta had given detailed explanation in respect of 5 companies by clearly explaining the involvement of cash for acquisition of companies and commission for Mr Alok Agarwal thereon etc. However, he did not mention any involvement of cash transaction with regard to Diwakar Commercial Private Limited in the said reply. He only said that he had been made a namesake Director in DCPL. Further, even in the response to Question No. 13, in respect of the above companies, Shri Sunil Kumar Gupta had only spoken about transaction for acquisition of shares of companies and not about any loan transactions. Hence, there is absolutely nothing incriminating or adverse from the statement on oath from Shri Sunil Kumar Gupta, wherein he had alleged any wrong doing either by DCPL or by assessee herein qua their loan transactions. But the Id AO in page 11 para 12 concludes that the cash is received from DCPL for acquisition of shares. This is contrary to the actual statement reflected by Sunil Kumar Gupta. In any event, we find that the entire statement of Shri Sunil Kumar Gupta stood retracted by him on 02.11.2019 by way of notarized affidavit, which is enclosed in pages 162 to 167 of the paper book within 13 days from the date of giving the original statement. This retraction statement was sent by post to the Income Tax Department and the copy of the same was also duly furnished to the AO during the course of assessment proceedings. The assessee even sought for cross-examination of Shri Sunil Kumar Gupta in the reply filed before the Id AO during the course of search assessment proceedings vide letter dated 01.01.2024, as Shri Sunil Kumar Gupta was witness of the department. This cross-examination was not provided by the Id AO to the assessee and no action has been taken on Shri Sunil Kumar Gupta by the Investigation Wing or by the AO after his retraction.

13. The Id DR before us vehemently argued that in the retraction statement of Shri Sunil Kumar Gupta, he had merely alleged that he was pressurised to give statement under mental pressure, whereas he was given due rest and even lunch break while recording the statement originally. Further, Shri Sunil Kumar Gupta had not even lodged any complaint with the higher authorities about the search team or lodged any FIR against them before the police to justify his retraction. Accordingly, the Id DR argued that the said retraction statement is no retraction in the eyes of law.

14. From the above, it could be seen that the sole basis of initiating proceedings on the assessee u/s 153C of the Act was the confirmation/ledger account found in the laptop of Shri Sunil Kumar Gupta containing loan transaction with DCPL and assessee. The said loan transaction carried out through regular banking channels and reflected in the books of DCPL. As stated earlier, this confirmation /ledger account dated 01.04.2017 was even found at the time of search on 18.10.2019, carried out in Alankit Group, hence data found from the laptop of Shri Sunil Kumar Gupta did not contain any incriminating material to even suggest that the loan transactions carried out earlier are emanating out of any wrong doing in the form of cash involvement thereon. Hence, it could be safely concluded that there is absolutely no incriminating material available with the AO for making addition for AY 2017-18, which is an unabated assessment as on the date of recording of satisfaction note qua the assessee on 03.08.2023, for initiating proceedings u/s 153C of the Act. The law is very well settled by the Hon'ble Supreme Court in the case of CIT v. Jasjit Singh reported in 458 ITR 437 (SC) that the date of search qua Section 153C assessee would be the date of handing over the documents by the assessing officer of the searched person to the assessing officer of the third party. Hence, construing from that date of search i.e. 3.8.2023,

assessment year 2017-18 would become an unabated assessment qua the assessee. Hence, in order to disturb the assessment already framed for assessment year 2017-18, there should be some incriminating material found in the course of third party search, which has a bearing on determination of total income of the assessee herein for AY 2017-18. The above observations clearly establishes that there is no such material. We hold that the statement of Shri Sunil Kumar Gupta dated 19.10.2019 did not alleged any wrong doing in respect of loan transactions of DCPL with assessee and hence cannot be construed to have any incriminating material. In any event, statement recorded u/s 132(4) cannot be construed as incriminating material as held by the Hon'ble Jurisdictional High Court in the case of Pr. CIT v. Best Infrastructure (India) Pvt. Ltd reported in 397 ITR 82(Del). Hence, it could safely be concluded that there is no incriminating material available with the AO for making this addition on account of loan transaction with the DCPL. By placing Reliance on the decision of Hon'ble Supreme Court in the case of Abhisar Buildwell reported in 454 ITR 212 (SC), we hold that the addition made by the AO in an unabated assessment sans incriminating material need to be deleted.

15. Further, we find that the satisfaction note u/s 153C of the Act has been recorded on consolidated basis for AYs 2014-15 to 2020-21 u/s 153C of the Act dated 03.08.2023. In this regard, the Id AR duly placed on record the decision of the coordinate bench of this Tribunal, authored by the under signed Accountant Member in the case of SRS Panchratan Diamonds Pvt. Ltd Vs. DCIT in ITA Nos. 218 and 219/Del/2023 for AYs 2015-16 and 2016-17 dated 14.11.2025, wherein it was held that the issue of consolidated satisfaction note recorded for various assessment years would become fatal to the entire assessment proceedings itself. The relevant operative portion of the order of the Tribunal are as under:-

“6. From the above, it could be seen that the Learned AO of the assessee herein had recorded Consolidated satisfaction note for assessment years 2011-12 to 2017-18 in one go instead of recording independent and individual satisfaction note for each assessment year which is the requirement of the law. The moot question that arises for our consideration is as to whether recording of consolidated satisfaction note for various assessment years and assuming jurisdiction under section 153C of the Act would be fatal to the very assumption of jurisdiction under section 153C of the Act or not ? This issue is no longer res integra in view of the decision of the Hon’ble Karnataka High Court in the case of DCIT vs Sunil Kumar Sharma reported in 159 taxmann.com 179 (Kar). The relevant operative portion of the said order is reproduced below:-

“53. Further, satisfaction note is required to be recorded under section 153C of the IT Act for each Assessment Year and in the impugned proceedings, a consolidated satisfaction note has been recorded for different Assessment Years, which also vitiates the entire assessment proceedings. In view of all these findings, it is said that the appeals do not have any substance for seeking intervention as sought for by the appellant/Revenue.”

7. It is pertinent to note that the Special Leave Petition (SLP) preferred by the revenue against this order had been dismissed by the Hon’ble Supreme Court which is reported in 165 taxmann.com 846 (SC) by observing as under:-

“ORDER

1. Delay condoned.
2. Heard the learned Senior Counsel appearing for the appellants.
3. We are not inclined to interfere with the impugned judgment and order passed by the High Court of Karnataka at Bengaluru in Writ Appeal No. 831/2022 (T-IT) dated 22-01-2024/ Deputy Commissioner of Income-tax v. Sunil Kumar Sharma [2024] 159 taxmann.com 179 (Karnataka).
4. The Special Leave Petition is dismissed.
5. Pending application(s), if any, shall stand disposed of.

8. The Learned DR before us vehemently relied on the decision of the Hon’ble Jurisdictional High Court in the case of Indian National Congress vs DCIT reported in 463 ITR 431 (Del) dated 22-03-2024 wherein it was held as under:-

“24. The provision only requires the AO to be satisfied that the material collated and handed over is likely to have an impact on the total income for the relevant AY or AYs'. While an assessment would necessarily have to be made in respect of each of the relevant AY or AYs', we find ourselves unable to read Section 153A or 153C as mandating separate Satisfaction Notes being drawn for each assessment year. Our conclusion in this respect stands fortified from the language of Section 153A(1)(a) which contemplates a notice being issued calling upon the person to furnish a return of income for each of the six AYs' or the relevant AY or AYs'. This too appears to suggest

that while the notice could be composite and based on a common satisfaction note which encapsulates the incriminating material pertaining to the AYs' in question, it is only returns which must and mandatorily be filed separately.

25. Regard must be had to the indubitable fact that the Satisfaction Note merely forms the foundation for initiation of action and which would enable us to evaluate whether an opinion has been validly formed. As long as it rests on incriminating material which pertains to the AYs' in question, the same would qualify the requirement of Section 153C. We deem it apposite to observe that while it would be imperative for the Satisfaction Note to refer to the material pertaining to the AYs' which are sought to be reopened, a consolidated Satisfaction Note clearly does not appear to be an anathema provided it rests on material which pertains to the AYs' which are sought to be reopened.

26. We in this respect also bear in mind the lucid explanation of the procedure liable to be adopted under Sections 153A and 153C as came to be enunciated by the Court in CIT v. Kabul Chawla [2015] 61 taxmann.com 412/234 Taxman 300/[2016] 380 ITR 573 (Delhi)/2015 SCC OnLine Del 11555.

"37. On a conspectus of section 153A(1) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

(i) Once a search takes place under section 132 of the Act, notice under section 153A(1) will have to be mandatorily issued to the person searched requiring him to file returns for six assessment years immediately preceding the previous year relevant to the assessment year in which the search takes place.

(ii) Assessments and reassessments pending on the date of the search shall abate. The total income for such assessment years will have to be computed by the Assessing Officers as a fresh exercise.

(iii) The Assessing Officer will exercise normal assessment powers in respect of the six years previous to the relevant assessment year in which the search takes place. The Assessing Officer has the power to assess and reassess the "total income" of the aforementioned six years in separate assessment orders for each of the six years. In other words, there will be only one assessment order in respect of each of the six assessment years "in which both the disclosed and the undisclosed income would be brought to tax".

(iv) Although section 153A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the Assessing Officer which can be related to the evidence found, it does not mean that the

assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously, an assessment has to be made under this section only on the basis of the seized material."

(v) In the absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word "assess" in section 153A is relatable to abated proceedings (i.e., those pending on the date of search) and the word "reassess" to the completed assessment proceedings.

(vi) In so far as the pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under section 153A merges into one. Only one assessment shall be made separately for each assessment year on the basis of the findings of the search and any other material existing or brought on the record of the Assessing Officer.

(vii) Completed assessments can be interfered with by the Assessing Officer while making the assessment under section 153A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment."

By placing reliance on the aforesaid decision of Hon'ble Delhi High Court, the Learned DR argued that recording of consolidated satisfaction note for various assessment years put together would not be fatal to the assumption of jurisdiction and framing of assessment under section 153C of the Act.

9. *But we find that the Hon'ble Jurisdictional High Court in the case of Saksham Commodities Ltd vs ITO reported in 464 ITR 1 (Del) dated 09-04-2024 (judges of equal strength) had passed an order in favour of the assessee on the very same issue. The relevant operative portion of the said order is reproduced below:-*

"50. What we seek to emphasise is that merely because Section 153C confers jurisdiction upon the AO to commence an exercise of assessment or reassessment for the block of years which are mentioned in that provision, the same alone would not be sufficient to justify steps in that direction being taken, unless the incriminating material so found is likely to have an impact on the total income of a particular AY forming part of the six AYs' immediately preceding the AY pertaining to the search year or for the "relevant assessment year".

51. Ultimately Section 153C is concerned with books, documents or articles seized in the course of a search and which are found to have the potential to impact or have a bearing on an assessment which may be undergoing or which may have been completed. The words "have a bearing on the determination of the total income of such other person" as appearing in Section 153C would necessarily have to be conferred pre-eminence. Therefore, and unless the AO is satisfied that the material gathered could potentially impact the determination of total income, it would be unjustified

in mechanically reopening or assessing all over again all the ten AYs' that could possibly form part of the block of ten years.

53. Sinhgad Technical Education Society also constitutes a binding precedent in respect of the aforesaid proposition as would be evident from the Supreme Court noticing that the material disclosed pertained only to AY 2004-05 or thereafter and that consequently the Section 153C action initiated for AYs' 2000-01 to 2003-04 would not sustain. It was this position in law as enunciated in that decision which came to be reiterated by our Court in Index Securities.

55. Take for instance a case where the material gathered in the search is contemplated to have an adverse impact on the declarations and disclosures made by an assessee pertaining only to AYs' 2016-17 and 2017-18. What we seek to emphasise is that pending assessments for those two years could validly form subject matter of action under Section 153C and pending assessments in that respect would surely abate. However, that by itself would not be sufficient to either reopen or issue notices in respect of AYs' prior to or those falling after those two AYs' and which may otherwise fall within the maximum block period of ten years merely because the statute empowers the AO to do so. Unless the material gathered and recovered is found to have relevancy to the AY which is sought to be subjected to action under Section 153C, it would be legally impermissible for the respondents to invoke those provisions. Consequently, the AO would be bound to ascertain and identify the year to which the material recovered relates. The years which could be then subjected to action under Section 153C would have to necessarily be those in respect of which the assessment is likely to be influenced or impacted by the material discovered. Section 153C neither mandates nor envisages a mechanical or an en blanc exercise of power, or to put it differently, one which is uninformed by a consideration of the factors indicated above.

56. We also bear in mind the pertinent observations made in RRJ Securities when the Court held that merely because an article or thing may have been recovered in the course of a search would not mean that concluded assessments have to "necessarily" be reopened under Section 153C and that those assessments are not liable to be revised unless the material obtained have a bearing on the determination of the total income. This aspect was again emphasised in para 38 of RRJ Securities with the Court laying stress on the existence of material that may be reflective of undisclosed income being of vital importance. All the aforesaid judgments thus reinforce the requirement of incriminating material having an ineradicable link to the estimation of income for a particular AY.

57. It becomes pertinent to note that both Sections 153A and 153C require the assessee upon being placed on notice to furnish ROIs' for the six AYs' or the "relevant assessment year". All that the two provisions mandate is that notwithstanding the submission of those ROIs', the AO would frame one

assessment order in respect of each of the years which were made subject matter of the notice and which would deal with both disclosed and undisclosed income. This too reinforces our view that Section 153C would apply only to such AYs' where the jurisdictional AO is satisfied and has incriminating material for those AYs' and which may be concerned with disclosed and undisclosed income.

60. Before concluding, we also deem it imperative to briefly notice certain aspects which emerge from a reading of the Satisfaction Notes themselves. As is manifest from a reading of the Satisfaction Note drawn by the jurisdictional AO of the assessee in W.P. (C) 1459/2024, after noticing the material which was recovered during the search and related to FYs' 2009-10, 2010-11 and 2011-12 [corresponding AYs' thus being AYs' 2010-11, 2011-12 and 2012-13], it has proceeded to observe that the assessments which were liable to abate or be reopened would be AYs' 2010-11 to 2020-21. A similar note appears in W.P. (C)1117/2024. Here again, after referring to the material pertaining to FY 2009-10 [and thus relating to AY 2010-11], the AO proceeded to seek approval for initiating action under Section 153C in respect of AYs' 2010-11 up to 2020-21.

61. A reading of the aforesaid Satisfaction Notes would establish that jurisdictional AOs' appear to have proceeded on the premise that the moment incriminating material is unearthed in respect of a particular AY, they would have the jurisdiction and authority to invoke Section 153C in respect of all the assessment years which could otherwise form part of the "relevant assessment year" as defined in Section 153A. In our considered opinion, the aforesaid understanding of Section 153C is clearly erroneous and unsustainable. As explained hereinabove, the discovery of material likely to implicate the assessee and impact the assessment of total income for a particular AY is not intended to set off a chain reaction or have a waterfall effect on all AYs' which could form part of the "relevant assessment year". This, more so since none of the Satisfaction Notes record any reasons of how that material is likely to materially influence the computation of income for those AYs'.

62. Hypothetically speaking, it may be possible for the material recovered in the course of a search having the potential or the probability of constituting incriminating material for more than one assessment year. However, even if such a situation were assumed to arise, it would be incumbent upon the AO to duly record reasons in support of such a conclusion. The Satisfaction Notes would thus have to evidence a formation of opinion that the material is likely to be incriminating for more than a singular assessment year and thus warranting the drawl of Section 153C proceedings for years in addition to those to which the material may be directly relatable.

G. CONCLUSIONS

63. *On an overall consideration of the structure of Sections 153A and 153C, we thus find that a reopening or abatement would be triggered only upon the discovery of material which is likely to "have a bearing on the determination of the total income" and would have to be examined bearing in mind the AYs' which are likely to be impacted. It would thus be incorrect to either interpret or construe Section 153C as envisaging incriminating material pertaining to a particular AY having a cascading effect and which would warrant a mechanical and inevitable assessment or reassessment for the entire block of the "relevant assessment year".*

64. *In our considered view, abatement of the six AYs' or the "relevant assessment year" under Section 153C would follow the formation of opinion and satisfaction being reached that the material received is likely to impact the computation of income for a particular AY or AYs' that may form part of the block of ten AYs'. Abatement would be triggered by the formation of that opinion rather than the other way around. This, in light of the discernibly distinguishable statutory regime underlying Sections 153A and 153C as explained above. While in the case of the former, a notice would inevitably be issued the moment a search is undertaken or documents requisitioned, whereas in the case of the latter, the proceedings would be liable to be commenced only upon the AO having formed the opinion that the material gathered is likely to inculcate the assessee. While in the case of a Section 153A assessment, the issue of whether additions are liable to be made based upon the material recovered is an aspect which would merit consideration in the course of the assessment proceedings, under Section 153C, the AO would have to be prima facie satisfied that the documents, data or asset recovered is likely to "have a bearing on the determination of the total income". It is only once an opinion in that regard is formed that the AO would be legally justified in issuing a notice under that provision and which in turn would culminate in the abatement of pending assessments or reassessments as the case may be.*

65. *We would thus recognize the flow of events contemplated under Section 153C being firstly the receipt of books, accounts, documents or assets by the jurisdictional AO, an evaluation and examination of their contents and an assessment of the potential impact that they may have on the total income for the six AYs' immediately preceding the AY pertaining to the year of search and the "relevant assessment year". It is only once the AO of the non-searched entity is satisfied that the material coming into its possession is likely to "have a bearing on the determination of the total income" that a notice under Section 153C would be issued. Abatement would thus be a necessary corollary of that notice. However, both the issuance of notice as well as abatement would have to necessarily be preceded by the satisfaction spoken of above being reached by the jurisdictional AO of the non-searched entity.*

66. Therefore, and in our opinion, abatement of the six AYs' or the "relevant assessment year" would follow the formation of that opinion and satisfaction in that respect being reached.

H. OPERATIVE DIRECTIONS

69. When tested in light of the aforesaid principles, we find that except for a few exceptions which were noticed in the introductory parts of this judgment, the writ petitions forming part of this batch, impugn the invocation of Section 153C in respect of AYs' for which no incriminating material had been gathered or obtained. The Satisfaction Notes also fail to record any reasons as to how the material discovered and pertaining to a particular AY is likely to "have a bearing on the determination of the total income" for the year which is sought to be abated or reopened in terms of the impugned notices. The respondents have erroneously proceeded on the assumption that the moment any material is recovered in the course of a search or on the basis of a requisition made, they become empowered in law to assess or reassess all the six AYs' years immediately preceding the assessment correlatable to the search year or the "relevant assessment year" as defined in terms of Explanation 1 of Section 153A. The said approach is clearly unsustainable and contrary to the consistent line struck by the precedents noticed above."

10. Hence respectfully applying the construction that is favourable to the assessee by taking shield from the decision of the Hon'ble Supreme Court in the case of *Vegetable Products* reported in 88 ITR 192 (SC), we would like to follow the decision of the Hon'ble Jurisdictional High Court *supra* in the case of *Saksham Commodities Ltd* reported in 464 ITR 1 (Del) and the decision of the Hon'ble Karnataka High Court in the case of *Sunil Kumar Sharma supra* and hold that recording of consolidated satisfaction note for various assessment years by the Learned AO would become fatal to the very assumption of jurisdiction and consequential framing of assessment under section 153C of the Act for the assessment years 2015-16 and 2016-17 in the instant case. Accordingly the assessments framed under section 153C of the Act for the assessment years 2015-16 and 2016-17 are hereby quashed."

16. Respectfully following the decision, we hold that the assumption of jurisdiction u/s 153C of the Act by recording a consolidated satisfaction note for various AYs is flawed and accordingly the consequential search assessment framed u/s 153C of the Act is hereby quashed and the additions made thereon are hereby by deleted both on law as well as on facts. Accordingly, the other legal arguments advanced by the Id AR on the validity of issuance of notice u/s 153C of the Act by ACIT, Central Circle

instead of DCIT, Circle-2(1)(1), Ghaziabad as mandated in CBDT Circular dated 03.06.2022 need not to be gone into and the same is left open.

17. In the result, the appeal of the assessee in ITA No. 209/Del/2025 is allowed.

ITA No. 207/Del/2025-Pole-Ads Advertising Pvt. Ltd for AY 2017-18

18. The grounds raised by the assessee in ITA No. 207/Del/2025 are identical with those raised in ITA No. 209/Del/2025 in the case of Vidur Chharia. Factually the following are distinguishing features with the facts prevailing in the case of Vidur Chharia:-

a. In this case, the loan amounts were duly recorded in the books of account regularly maintained by the assessee.

b. Original assessment in this case was not completed u/s 143(3) of the Act.

c. Satisfaction note recorded u/s 153C of the Act which is enclosed in page 129 of the Paper Book contained a paragraph stating that the assessee had transaction with parties belonging to Alankit Group in AYS 2011-12 and 2013-14 for aggregate amount of Rs. 50 lacs or more and as such the case of the assessee falls within the ambit of Explanation 2 to Section 153A of the Act. This particular observation in satisfaction note was missing in the case of Vidur Chharia.

d. The loan received from DCPL is repaid partially in this year and remaining in subsequent year.

19. Other than the above, all other facts remain the same with Vidur Chharia. We have already held for AY 2017-18 in the case of Vidur Chharia

that the said lender i.e. DCPL has got sufficient creditworthiness to advance loan to Vidur Chharia. The same is the situation for the assessee before us in ITA No. 207/Del/2025 also. This case is even in a better footing wherein, the loan transactions are duly reflected in the books of both the parties, i.e. both lender and borrower. In this case, the loan has been repaid partially in AY 2017-18 and remaining in AY 2018-19. The very same AO while completing search assessment u/s 153C of the Act on 26.03.2024 for AY 2018-19 for the very same assessee had accepted the repayment of loan as genuine and had not drawn any adverse inference thereon. Further, the very same AO in the search assessment completed u/s 153C of the Act dated 18.03.2024 for AY 2011-12 had accepted the transaction with DCPL as genuine. The Id AR duly placed on record the assessment orders for AY 2018-19 dated 26.03.2024 and for AY 2011-12 dated 18.03.2024 to prove the aforesaid facts. In this case also, the Id AO had recorded combined satisfaction note u/s 153C of the Act for AYs. 2011-12, 2013-14 to 2020-21 on 03.08.2023. In this case also, the assessee had duly furnished the bank statement of the lender, ITR of the lender, audited financial statement of the lender, confirmation from the lender, NBFC registration with RBI of the lender, PAN of the lender and bank statement of the assessee. Hence the decision rendered hereinabove in the case of Vidur Chharia in ITA No. 209/Del/2025 shall apply mutatis mutandis for this assessee also in ITA No. 207/Del/2025. Hence, the appeal of the assessee in ITA No. 207/Del/2025 is allowed.

ITA No. 205/Del/2025- Rakesh Chharia & Sons HUF for AY 2017-18

20. Both the parties fairly stated that the facts prevailing in this case are identical to facts that prevailed in the case of Vidur Chharia in ITA No. 209/Del/2025. Hence, the decision rendered by us in the case of Vidur

Chharia (supra) shall apply mutatis mutandis for this assessee also in view of identical facts except with variance in figures.

21. To sum up, the appeals of all the assesseees are partly allowed.

Order pronounced in the open court on 13/01/2026.

-Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 13/01/2026
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi