

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 3150 & 3148/MUM/2025
Assessment Year: 2009-10 & 2010-11**

Babulal Mulchand Varma,
35th Floor, Flat No. 3501, Four
Season, Private Residence Sub
Plot No. 1 H 136, Dr. Moses
Road, Worli Naka, Lower Parel,
Mumbai-400018.

**PAN NO. AARPV 5138 M
Appellant**

Vs. Asst. CIT Central Circle-4(3),
Room No. 420, 4th floor,
Kautilya Bhavan, C-41 to C-
43, G Block, Bandra Kurla
Complex, Bandra (East),
Mumbai-400051.

Respondent

Assessee by : Mr. Ajay R. Singh &
Mr. Akshay Pawar
Revenue by : Mr. Satya Pal Kumar, CIT-DR

Date of Hearing : 02/12/2025
Date of pronouncement : 22/01/2026

ORDER

PER OM PRAKASH KANT, AM

These two appeals by the assessee are directed against a common order dated 06.03.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – 52, Mumbai [in short ‘the Ld. CIT(A)’] for assessment years 2009-10 and 2010-11 respectively.



2. As the issues involved in both the appeals are common and interconnected, the same were heard together and are being disposed of by this consolidated order, for the sake of convenience. We shall first take up the appeal relating to the assessment year 2009-10. The grounds of appeal raised by the assessee read as under:

Notice u/s. 153C bad in law :

1. *The Ld. CIT(A) erred in upholding the assessment order passed by the AO u/s 143(3) r.w.s. 153C of the Act without appreciating that notice and assessment was time barred.*

2. *The Ld. CIT(A) failed to appreciate that satisfaction note recorded u/s. 153C of the Act was not provided to the assessee inspite of specific demand.*

Addition of Rs. 1,14,26,150/- :

3. *The Id. CIT(A) erred in upholding the addition of Rs. 1,14,26,150/- on account of unexplained & unaccounted investment u/s 69 of the Act without appreciating that the property in question belonged to the firm MBH Enterprises and not the assessee.*

4. *The Id. CIT(A) erred in upholding the addition of Rs. 1,14,26,150/- on account of unexplained & unaccounted investment u/s 69 of the Act without providing the copy of statement recorded of the third party nor provided cross examination, thus merely relying on document found from third party premises addition is made in total breach of principle of natural justice.*

5. *The Id. CIT(A) erred in upholding the addition of Rs. 1,14,26,150/- on account of unexplained & unaccounted investment u/s 69 of the Act on the alleged ground that cash payment has been made in the purchase transaction by the assessee, without any reference to stamp duty value / circle rate prevailing in the area or reference to a registered valuer to ascertain the market value.*



3. Briefly stated, the facts of the case are that the assessee filed his original return of income for the assessment year under consideration on 31.07.2009, declaring a total income of Rs. 74,50,560/-. Subsequently, a search and seizure operation under section 132 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) was conducted by the Investigation Wing of the Income-tax Department on 06.03.2018 in the case of the SSS (Satyam, Sangani, Shaligram) group of companies.

3.1 Pursuant to the search, certain material and information allegedly pertaining to the assessee were stated to have been found. On the basis thereof, satisfaction under section 153C of the Act was recorded by the competent authority, and a notice under the said provision was issued by the Assessing Officer on 29.06.2021, which was duly served upon the assessee. In response thereto, the assessee filed a return of income on 04.12.2021, declaring the same income at Rs.74,50,560/- as returned originally.

3.2 Thereafter, statutory notices under the Act were issued and complied with. In the course of assessment proceedings, the Assessing Officer observed that certain incriminating material, stated to be in the nature of a ledger account maintained in the books of a real estate developer and found during the course of search, reflected the purchase of a residential unit by the assessee in the project “Satyam Sentosa Greenland Phase A–B”. It was alleged that against the total consideration of Rs. 1,81,10,000/-, a



sum of Rs. 1,26,10,000/- was paid by the assessee in cash. As the assessee was unable to satisfactorily explain the source of the alleged cash payment, the Assessing Officer, in the assessment completed on 27.12.2021 under section 153C read with sections 143(3) and 153A of the Act, made an addition of Rs. 1,14,26,150/- on account of alleged on-money payment.

4. Aggrieved, the assessee carried the matter in appeal before the Ld. Commissioner of Income-tax (Appeals), challenging both the assumption of jurisdiction under section 153C of the Act as well as the addition made on merits. However, the appeal did not find favour with the Ld. CIT(A). The assessee is, therefore, in further appeal before the Tribunal by raising the grounds reproduced hereinabove.

5. Before us, the assessee has filed a Paper Book containing pages 1 to 132.

5.1 The Ld. counsel for the assessee, referring to Grounds Nos. 1 and 2, contended that pursuant to the amendment to section 153A of the Act with effect from 01.04.2017, assessment proceedings could be initiated for a maximum of ten assessment years preceding the assessment year relevant to the previous year in which the triggering event occurs. It was submitted that where proceedings are initiated under section 153C of the Act, the block of ten preceding assessment years has necessarily to be reckoned with



reference to the assessment year in which the satisfaction under section 153C is recorded, and not from the year of search.

5.2 It was argued that since, in the present case, the satisfaction note was admittedly recorded in financial year 2021-22, the ten-year block would commence from assessment year 2022-23 and extend backwards only up to assessment year 2012-13. As the assessment years involved in the present appeals fall beyond the said period, the proceedings initiated under section 153C read with section 153A of the Act were without jurisdiction and liable to be quashed. Reliance was placed on the decisions of the Hon'ble Delhi High Court in Principal Commissioner of Income-tax Central v. Amol Awasthi [2025] 173 taxmann.com 989 (Delhi) and the Hon'ble Bombay High Court in Ashok Khandelwal v. Union of India and Ors. in writ petition (L) No. 7690 of 2024.

6. On the contrary, the Ld. Departmental Representative (DR) relied on the order of the Ld. CIT(A).

7. We have heard the rival submissions and perused the material available on record. The limited issue for our consideration is whether the Assessing Officer was justified in assuming jurisdiction under section 153C of the Act for the assessment years under consideration.

7.1 The factual position is not in dispute. The proceedings against the assessee were initiated under section 153C of the Act on the



basis of material allegedly found during the course of search conducted on 06.03.2018 in the case of the SSS Group. The notice under section 153C of the Act was issued on 29.06.2021. Though a copy of the satisfaction note has not been placed before us, it is a fair and reasonable presumption that such satisfaction was recorded immediately prior to the issuance of notice and, in any event, during the financial year 2021-22.

7.2 The Assessing Officer proceeded to issue notices for ten assessment years preceding the assessment year relevant to the year of search. The search in the case of SSS group of companies was carried out on 06.03.2018. Accordingly, the Assessing Officer issued notice u/s 153C read with section 153A of the Act in respect of 10 preceding assessment years from AY 2017-18 to 2008-09. The assessee has challenged this action contending that, in the case of proceedings under section 153C of the Act, the block of six or ten assessment years has to be reckoned from the assessment year relevant to the financial year in which the satisfaction note is recorded, and not from the year of search. The Ld. CIT(A) after considering the submission of the assessee dismissed the grounds of the assessee observing as under:

“6. I have considered the facts of the case. The additional ground is taken up first for adjudication. According to the appellant, the notices u/s 153C could not have been issued for AY 2009-10 & 2010-11. The appellant has relied on the decision of the Hon'ble Delhi High Court in the case of PCIT vs Ojjus Medicare P Ltd (2024) 465 ITR 101 (Delhi).



6.1. *I have carefully perused the contentions of the appellant. The Hon'ble Apex Court in the case of Vikram Sujit Kumar Bhatia, 453 ITR 417 held that Section 153C is a machinery provision and that it must give effect to its manifest purpose by construing it in such a manner so as to effectuate the object and purpose of the statute.*

6.2. *An amendment was also brought into the Finance Act 2017 w.e.f. 01.04.2017. Prior to this amendment, the relevant portion stood as under:-*

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 the relevant assessment year or years referred to in sub-section (1) of section 153A."

6.3 *After the amendment and w.e.f. 01.04.2017, the corresponding relevant portion reads as under:-*

..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 year or years referred to in sub-section (1) of section 153A."

6.4. *Thus, the period for which Section 153C proceedings can be done has undergone a change and reference had been drawn to the "previous year in which search is conducted.". This terminology is unique and the amendment clearly suggest that the years of assessment has undergone a change as compared to the earlier provision.*

6.5. *In the present case, the search action was carried out on 06.03.2018. Thus, the contentions of the appellant do not hold good in any manner. The fourth proviso to S.153(1) states that in respect of periods beyond 6 but not later than 10 AYs, the income which has escaped assessment is Rs.50 lakhs or more in aggregate. The AO has validly initiated the proceedings u/s 153C*



of the Act. Accordingly, the Additional Ground of the appellant stands DISMISSED.”

7.3 On perusal of the above, we find that the assessee before the Ld. CIT(A) relied on the decision of the Hon’ble Delhi High Court in the case of PCIT v. Ojjus Medicare P. Ltd. (2024) 465 ITR 101 (Delhi). But the Ld. CIT(A) however rejected the contention of the assessee.

7.4 We find merit in the contention advanced on behalf of the assessee. The Hon’ble Delhi High Court in *PCIT v. Amol Awasthi(supra)* has categorically held that, for the purposes of section 153C read with section 153A of the Act, the relevant block of assessment years is required to be computed from the end of the assessment year in which the satisfaction note under section 153C is recorded. The said decision follows the earlier judgment in *Ojjus Medicare Pvt. Ltd.(supra)*, which is founded upon the law laid down by the Hon’ble Supreme Court. The relevant finding of the Hon’ble Delhi High Court is reproduced as under:

“6. The Assessee filed his return of income for AY 2012-13 on 24.09.2012 declaring an income of Rs.10,03,030/-, which was processed under Section 143(1) of the Act. On 30.06.2019, a search was conducted in the case of one Sh. Sanjay Jain. The Assessee was also considered one of the searched persons and accordingly, a notice under Section 153A of the Act was issued. While the proceedings pursuant to the notice issued under Section 153A were pending, the Assessing Officer [AO] exercising jurisdiction in case of the Assessee received information that a search had been conducted on 30.06.2019 under Section 132 of the Act in the case relating to one Sh. Rajiv Saxena. The AO exercising



jurisdiction in the case of the searched person (Sh. Rajiv Saxena), recorded a satisfaction note stating that the documents or material unearthed during the said search belonged to the Assessee or contained information pertaining to the Assessee.

7. In view of the above, the AO dropped the proceedings initiated against the Assessee under Section 153A of the Act under the process of initiating fresh proceedings under Section 153C of the Act. However, in the meanwhile, searches were also conducted on 18.10.2019 in cases relating to Alankit Group. The AO exercising jurisdiction in respect of such searched person also recorded his satisfaction that the materials found during the search belonged to or contained information pertaining to the Assessee.

8. In view of the above, the AO issued the notice dated 29.09.2021 under Section 153C of the Act requiring the Assessee to file his return of income for the relevant assessment year.

9. In response to the said notice issued under Section 153C of the Act, the Assessee filed his return of income on 20.12.2021 declaring an income of Rs.10,03,030/- as originally issued. The said proceedings culminated in the draft assessment order dated 31.03.2023 making certain additions on protective basis.

10. Being aggrieved by the draft assessment order, the Assessee filed his objections before the learned DRP. The learned DRP, by an order dated 28.12.2023, rejected the objections raised by the Assessee and upheld the view taken by the AO in the draft assessment order.

11. Pursuant to the directions issued by the learned DRP, the AO passed a final assessment order dated 30.01.2024 under Sections 144C and 153C read with Section 143(3) of the Act.

12. The Assessee appealed the said assessment order before the learned ITAT, which was allowed. The learned ITAT, following the decision of this Court in Pr. CIT (Central-1) v. Ojjus Medicare (P.) Ltd. : Neutral Citation No.: 2024:DHC:2629-DB/[2024] 161 taxmann.com 160/465 ITR 101 (Delhi) held that AY 2012-13 falls outside the block of ten assessment years, which could be reopened pursuant to a



notice issued under Section 153C of the Act. Concededly, in terms of the said decision, the block of ten years for which assessments could be reopened is required to be construed from the end of the assessment year relevant to the financial year in which the satisfaction note under Section 153C of the Act was recorded by the AO. As noted above, in the present case, the AO had recorded its satisfaction note under Section 153C of the Act on 29.09.2021 and therefore, the period of ten years for which the assessments could be reopened under Section 153C of the Act read with Section 153A of the Act are required to be reckoned from the end of the AY 2022-23.”

7.5 The Hon’ble Jurisdictional High Court in *Ashok Khandelwal v. Union of India & Ors.* has also examined the identical issue and referred to the decision of the Hon’ble Delhi High Court in the case of *Ojus Medicare Pvt. Ltd. (supra)*. After considering the statutory framework and the binding precedents, the Hon’ble Bombay High Court affirmed that the reference point for computation of the block period under section 153C of the Act is the date of recording of satisfaction and transfer of material to the Assessing Officer of the non-searched person. The relevant finding of the Hon’ble Jurisdictional High Court is reproduced as under:

“12. Thus, the issue in the present Petition is narrow and is limited to the computation of the relevant assessment year as given in Explanation 1 of Section 153A of the Act, for which an assessment order can be made under Section 153C of the Act.

13. This issue came for consideration before the Hon'ble Supreme Court in the case of Jasjit Singh (supra). The issue before the Hon'ble Supreme Court in the case was whether the period of issuance of notice under Section 153C should commence: (a) only from the date the materials were forwarded to the Assessing Officer of the third party; or (b) from the date the search and seizure proceedings were conducted, in respect of the main assessee under Section 132.



This has been set out in paragraph 4 of the judgment, which is reproduced hereunder:-

"4. Notice was issued by the concerned jurisdictional A.Os. to the said assessee who contended that the period for which they were required to file returns, commenced only from the date the materials were forwarded to their A.Os. The Revenue, on the other hand, urged that the date (relatable to the period for which six years returns were to be filed by the assessee) was to be from the date when the search and seizure proceedings were conducted, in respect of the main assessee under Section 132."

14. The Hon'ble Supreme Court, in the said judgment, held that the time period for issuing notice under Section 153C should commence from the end of the Assessment Year in which the records are transferred to the Assessing Officer of the third party by the Assessing Officer of the searched party. The relevant portion of the judgment which is reproduced hereunder:-

"9. It is evident on a plain interpretation of Section 153C(1) that the Parliamentary intent to enact the proviso was to cater not merely to the question of abatement but also with regard to the date from which the six year period was to be reckoned, in respect of which the returns were to be filed by the third party (whose premises are not searched and in respect of whom the specific provision under Section 153-C was enacted. The revenue argued that the proviso [to Section 153(c)(1)] is confined in its application to the question of abatement.

10. This Court is of the opinion that the revenue's argument is insubstantial and without merit. It is quite plausible that without the kind of interpretation which SSP Aviation adopted, the A.O. seized of the materials - of the search party, under Section 132 - would take his own time to forward the papers and materials belonging to the third party, to the concerned A.O. In that event if the date would virtually "relate back" as is sought to be contended by the revenue, (to the date of the seizure), the prejudice caused to the third party, who would be drawn into proceedings as it were unwittingly (and in



many cases have no concern with it at all), is disproportionate. For instance, if the papers are in fact assigned under Section 153-C after a period of four years, the third party assessee's prejudice is writ large as it would have to virtually preserve the records for at latest 10 years which is not the requirement in law. Such disastrous and harsh consequences cannot be attributed to Parliament. On the other hand, a plain reading of Section 153-C supports the interpretation which this Court adopts."

15. The Hon'ble Delhi High Court in the case of Ojjus Medicare Pvt. Ltd. (supra) in its elaborate judgment, has taken the same view following the above referred decision of the Hon'ble Supreme Court. In the case before the Hon'ble Delhi High Court, the issue was identical to the present Petition. In that case also the searched party was the Alankit Group of Companies, i.e. same as that of the Petitioner. The documents and records seized from the premises of the Alankit Group of Companies pertained to the Petitioner therein, M/s Ojjus Medicare Pvt. Ltd. Though the search was conducted on the Alankit Group of Companies on 18th October 2019, the notice under Section 153C was issued after the transfer of records to the Assessing Officer of the third party. The question before the Hon'ble Delhi High Court was at what point of time the limitation for the issue of notice under Section 153C commences. Whether the relevant date commences from the date of search (i.e. 18th October 2019), or the date of transfer of record to the Assessing Officer of the third party. In paragraph 78 of the aforesaid judgment, the Hon'ble Delhi High Court relied upon the judgment of the Hon'ble Supreme Court in the case of Jasjit Singh (supra). Thereafter, the Hon'ble Delhi High Court concluded that the period of limitation for issuing notice under Section 153C shall commence from the end of the Assessment Year in which records are transferred to the Assessing Officer of the third party by the Assessing Officer of searched party. The relevant portion of the judgment is reproduced hereunder:-

"119. We thus record our conclusions as follows:

...



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 153A(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.

...

120. In view of the aforesaid discussion, the writ petitions placed in Lists I and II and pertaining to AYs' 2010- 11, 2011-12, 2012-13 and 2013-14, all of which fall beyond the maximum ten year block period shall stand allowed. The impugned notices pertaining to the aforesaid AYs' shall consequently stand quashed."

16. In the facts of the present case, admittedly, the impugned notice issued by Respondent No.2 under Section 153C of the Act pertains to Assessment Year 2011-12, which is beyond the maximum period of 10 years as mandated under Section 153C. Finding that the issue raised in the present Writ Petition is squarely covered by the aforesaid decisions, we allow the above Writ Petition in terms of prayer clause (b) and (c), which read thus:-

"(b) that this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the



impugned notice issued by the Respondent No.2 u/s 153C of the Act dated 01.11.2022 for the AY 2011-12 (being Exhibit 'B' hereto) and after going into the validity and legality thereof to quash and set aside the same.

(c) That this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned notice issued by the Respondent No.3 u/s 142(1) of the Act dated 05.12.2022 for the AY 2011-12 (being Exhibit 'C' hereto) and after going into the validity and legality thereof to quash and set aside the same."

7.6 In view of the decision of the Jurisdictional High Court on the issue in dispute, which is a binding precedent, we set aside the finding of the Ld. CIT(A).

7.7 Applying the aforesaid legal position to the facts of the present case, we hold that since the satisfaction under section 153C of the Act was recorded during the financial year 2021-22, the block of ten assessment years would extend only up to assessment year 2012-13. Consequently, the initiation of proceedings under section 153C of the Act for assessment years falling beyond assessment year 2012-13 is without jurisdiction.

8. As the assessment years involved in the present two appeals fall outside the permissible block of ten assessment years, the assumption of jurisdiction under section 153C of the Act is unsustainable in law. Accordingly, the assessments framed for the years under consideration are hereby quashed.



9. In view of our decision on the jurisdictional issue, the grounds raised by the assessee on merits are rendered academic and do not require adjudication.

10. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open Court on 22/01/2026.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 22/01/2026
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai