

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

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| ITA Nos. 2101 to 2103/Bang/2025 |
| Assessment Years : 2014-15, 2017-18 & 2018-19 |

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| The Deputy Commissioner of Income Tax, Central Circle – 1(4), Bangalore. | Vs. | M/s. Davanam Constructions Pvt. Ltd., No. 148, Surveyor Street, Basavangudi, Bengaluru – 560 004. PAN: AABCD3880H |
| APPELLANT | | RESPONDENT |

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|-------------|---|---------------------------|
| Assessee by | : | None |
| Revenue by | : | Smt. N. Hemalatha, CIT-DR |

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| Date of Hearing | : | 29-01-2026 |
| Date of Pronouncement | : | 03-02-2026 |

ORDER

PER BENCH

These are the appeals filed by the revenue challenging the common order of the Ld.CIT(A)-11, Bengaluru dated 11/07/2025 in respect of the A.Ys. 2014-15, 2017-18 and 2018-19 and raised the following grounds:

ITA No. 2101/Bang/2025

“1. Whether, the order of the Ld. CIT(A) is opposed to law and facts of the case?

2. Whether, the Ld. CIT(A) has erred in quashing the assessment proceedings-initiated u/s. 153C of the Act, without appreciating that incriminating material was found

from the premises of a director, which had a direct nexus with the assessee company?

3. Whether, the Ld. CIT(A) has erred in placing reliance on the judgement of the Hon'ble Karnataka High Court in the case of Shri. Sunil Kumar Sharma, without appreciating that the facts of the said case are materially different and not applicable to the assessee's case?

4. Whether, the Ld. CIT(A) has erred in considering that the Assessing Officer cannot assume jurisdiction u/s. 153C, despite the seized material being clearly related to the assessee, and the assessee was not the "person searched?"

ITA No. 2102/Bang/2025

"1. Whether, the order of the Ld. CIT(A) is opposed to law and facts of the case?

2. Whether, the Ld. CIT(A) has erred in quashing the assessment proceedings-initiated u/s. 153C of the Act, without appreciating that incriminating material was found from the premises of a director, which had a direct nexus with the assessee company?

3. Whether, the Ld. CIT(A) has erred in placing reliance on the judgement of the Hon'ble Karnataka High Court in the case of Shri. Sunil Kumar Sharma, without appreciating that the facts of the said case are materially different and not applicable to the assessee's case?

4. Whether, the Ld. CIT(A) has erred in considering that the Assessing Officer cannot assume jurisdiction u/s. 153C, despite the seized material being clearly related to the assessee, and the assessee was not the "person searched?"

ITA No. 2103/Bang/2025

"1. Whether, the order of the Ld. CIT(A) is opposed to law and facts of the case?

2. Whether, the Ld. CIT(A) has erred in quashing the assessment proceedings-initiated u/s. 153C of the Act, without appreciating that incriminating material was found from the premises of a director, which had a direct nexus with the assessee company?

3. Whether, the Ld. CIT(A) has erred in placing reliance on the judgement of the Hon'ble Karnataka High Court in the case of Shri. Sunil Kumar Sharma, without appreciating that the facts of the said case are materially different and not applicable to the assessee's case?

4. Whether, the Ld. CIT(A) has erred in considering that the Assessing Officer cannot assume jurisdiction u/s. 153C, despite the seized material being clearly related to the assessee, and the assessee was not the "person searched?"

2. All these appeals are related to the same assessee and the issues involved are one and the same, the appeals are taken up for hearing together and the appeal in ITA No. 2101/Bang/2025 is taken as the lead case and the decision arrived will apply mutatis mutandis to the other appeals in ITA Nos. 2102 & 2103/Bang/2025.

3. The brief facts of the case are that the assessee is in the construction industry and filed their nil return of income. There was a search and seizure operation on 02/08/2017 in the case of Shri D.K. Shivakumar and in connection with the said search, the residential premises of Mr. D.V. Harish, Director of the assessee company was also searched and during the search, there was no incriminating materials seized and only certain documents and other papers were seized. Statements were recorded from the Director of the assessee. Based on the said search, the AO had issued a notice u/s. 153C of the Act and the assessee also filed their return of income reporting a Nil income. Subsequently, notices u/s. 143(2) was issued. The assessee also submitted the details called for by the AO. The AO based on the loose sheets seized, had concluded that the assessee had received refundable deposits from M/s. Pacific Heights for the development of the property in Bangalore and by way notice u/s. 142(1) proposed to treat the said deposits as income of the assessee. The assessee also denied the said additions and submitted that the statement given by the Director based on the loose sheets could not be relied on for making the addition. The assessee also submitted that the said refundable deposits could be treated as capital receipts and not revenue receipts since the said deposits are

refundable in nature. The assessee also objected the assumption of jurisdiction u/s. 153C of the Act. The assessee submitted that the searched person was Shri D.V. Harish and it cannot be considered that the person searched was Shri D.K. Shivakumar in whose name the warrant has been issued and therefore the assessment u/s. 153C on the assessee could not be made. The AO furnished the satisfaction note for issuing notice u/s. 153C of the Act and rejected the objection that the initiation of proceedings u/s. 153C is valid. Thereafter the assessment has been completed u/s. 153C and addition was made as unexplained money in respect of the refundable deposits. Similarly, the block assessment for the earlier period of six years were also made. In respect of the A.Y. 2017-18, the AO had made an addition under the capital gains on account of Joint Development Agreement. Similarly, on account of the long term capital gains, additions were made for the A.Y. 2018-19. As against the said orders, the assessee filed appeals before the Ld.CIT(A). In the meanwhile, the assessee challenged the notices issued u/s. 153C of the Act before the Hon'ble Jurisdictional High Court and also challenged the consequential assessment orders on the ground that the notices issued u/s. 153C could not be sustained and it is against the Division Bench judgment of the Hon'ble Jurisdictional High Court in W.A. No. 830/2022 in the case of Sunil Kumar Sharma. The Hon'ble High Court vide its order dated 04/12/2024, had quashed the notices issued u/s. 153C and the consequential assessment orders dated 31/12/2019 which was challenged before the Ld.CIT(A). The Ld.CIT(A) after extracting the order of the Hon'ble High Court, had allowed the appeals filed by the assessee by stating that the assessment orders challenged before him were already quashed by the Hon'ble High Court.

4. As against the said order, the revenue has filed this appeal before this Tribunal.

5. At the time of hearing, the Ld.DR relied on the grounds raised in the appeal and submitted that the incriminating material was found from the

premises of the assessee's Director and therefore the initiation of proceedings u/s. 153C of the Act is correct.

6. On behalf of the assessee respondent, none appeared and therefore we proceeded to decide the appeal based on the materials available on record.

7. We have heard the arguments of both sides and perused the materials available on record.

8. The present appeal has been filed by the revenue challenging the order of the Ld.CIT(A) in which the Ld.CIT(A) had allowed the appeals filed by the assessee since the assessment orders passed by the AO has been set aside by the Hon'ble Jurisdictional High Court. We have also perused the order of the Ld.CIT(A) and in paragraph number 5, the Ld.CIT(A) had extracted the order of the Hon'ble High Court and observed that the proceedings initiated against Shri Sunil Kumar Sharma u/s. 153C of the Act was set aside on the ground that the proceedings should be initiated u/s. 153A of the Act. The said finding of the Hon'ble Jurisdictional High Court was affirmed by the Division Bench and subsequently, the SLP filed by the revenue before the Hon'ble Supreme Court was also dismissed thereby the order of the Ld. Single Judge has been confirmed by the higher forums. The Ld.CIT(A) had also considered the said facts and also the fact that the impugned assessment orders made u/s. 153C was quashed by the Hon'ble High Court, he has no other option except to allow the appeals filed by the assessee.

9. We have also put a question to the revenue about any further proceedings taken against the order of the Hon'ble High Court but we were informed that to the best of their knowledge no further proceedings were taken. In such circumstances, we do not find any infirmity in the orders of the Ld.CIT(A) which is based on the judgment of the Hon'ble High Court. In such circumstances, we do not find any merit in the appeals filed by the assessee. We, therefore dismiss the appeals filed by the revenue.

10. In the result, all the three appeals filed by the revenue are dismissed.

Order pronounced in the open court on 03rd February, 2026.

Sd/-
(PRASHANT MAHARISHI)
Vice President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 03rd February, 2026.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore