

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'C': NEW DELHI**

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

AND

SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

**ITA No.763/Del/2025
[Assessment Year: 2018-19]**

Elan Limited, L-1/1100, First Floor, Street No.25, Sangam Vihar, New Delhi-110062	Vs.	Deputy Commissioner of Income Tax, Central Circle-7, NCC DIT(S), Jhandewalan Extn. New Delhi-110055
PAN :AADCE3341G		
(Appellant)		(Respondent)

Appellant by	Shri Rajat Jain, CA and Shri Paritosh Jain, Adv.
Respondent by	Shri Dayainder Singh Sidhu, CIT-DR

Date of Hearing	18.11.2026
Date of Pronouncement	16.02.2026

ORDER

PER KRINWANT SAHAY, AM:

This appeal by assessee is arising out of the order of ld. Commissioner of Income Tax (Appeals)-24, New Delhi, dated 10.12.2024 against the assessment order dated 31.12.2021 passed under section 153C r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') pertaining to Assessment Year 2018-19.

2. Grounds of appeal raised by the assessee are as under:-

1. *That on the facts and circumstances of the case, the order passed by the learned CIT(A) confirming additions aggregating to Rs.39,33,832/-, is bad both in eyes of law and on facts.*

2. *That on the facts and circumstances of the case the initiation of assessment proceedings u/s 153C of the Act in the case of appellant by recording the consolidated satisfaction note for all six assessment years ie. for the assessment year 2013-14 to 2018-19 is in violation of law settled by the Hon'ble Supreme Court in the case of Commissioner of Income Tax (Appeals) v. Sunil Kumar Sharma [2024] 165 taxmann.com 846 (SC), that satisfaction note has to be recorded separately for each assessment year.*
3. *That on the facts and in the circumstances of the case, learned CIT(A) erred in law and fact in confirming addition of Rs. 1,00,000/- made by the assessing officer being sale proceeds of commercial unit alleged to be received in cash merely on the basis of unsubstantiated excel sheet found & impounded during the survey action on the premises of third person, without appreciating the fact that appellant has categorically denied of receiving such cash and without adducing any independent or corroborative evidence on record which could prove the receipt of such cash.*
4. *That on the facts and in the circumstances of the case, learned CIT(A) erred in law and fact in confirming addition of Rs. 1,00,000/- made by the assessing officer being sale proceeds of commercial unit alleged to be received in cash merely on the basis of unsubstantiated excel sheet found & impounded during the survey action on the premises of third person, which does not qualify to admit as evidence as per the provisions of Indian Evidence Act, 1872.*
5. *That on the facts and in the circumstances of the case, learned CIT(A) erred in law and fact in confirming addition of Rs 1,00,000/- made by the assessing officer on the basis of statement of one of the directors of third party recorded during the course of survey carried out in its case without providing the copy of his complete statement recorded and an opportunity of cross-examination of said person even though specifically requested by the appellant during the course of assessment proceedings.*
6. *That on the facts and in the circumstances of the case, learned CIT(A) erred in law and fact in confirming addition of Rs. 1,00,000/- made by the assessing*
7. *officer being sale proceeds of commercial unit alleged to be received in cash without appreciating the fact that the summons was issued u/s 131 of the Act, by the assessing officer to the customers who have booked units in the project of the appellant and none of them stated of providing cash to the appellant.*

8. *That on the facts and in the circumstances of the case, learned CIT(A) erred in law and fact in confirming the disallowance of deduction claimed u/s 43B of the Act of Rs. 38,33,832/- made by the assessing officer on the basis that proceedings u/s 153C is for the benefit of revenue and no fresh claim can be made in return of income filed u/s 153C without appreciating the fact that return of income filed u/s 153C is a fresh return of income wherein fresh claim can be*
9. *That on the facts and in the circumstances of the case, learned CIT(A) erred in law and fact in confirming the disallowance of deduction claimed u/s 43B of the Act of Rs. 38,33,832/- made by the assessing officer, without appreciating the fact that the assessing officer did not provide an opportunity of being heard before making such addition by issuing show cause notice during the course of assessment proceedings, which is gross violation of principle of natural justice.*

3. At the very outset, the assessee has challenged the order on the initiation of assessment proceedings under section 153C of the Act. The ld. Counsel for the assessee submitted that the issue is covered by the decision of the Co-ordinate Bench or the Delhi Tribunal in assessee's own case in ITA No.759/Del/2025 for Assessment Year 2014-15 dated 23.09.2025.

4. Per Contra, ld. CIT-DR relied upon the orders of the authorities below.

5. We have considered the arguments and submissions made by the ld. Counsel for the assessee. We have also considered the arguments of the ld. CIT-DR. We find that the Co-ordinate Bench or the Delhi Tribunal in assessee's own case in ITA No.759/Del/2025 (supra) has given a very speaking order, which is reproduced as under:

“3. It transpires at the outset that both these assessee’s raise their first and foremost identical substantive ground challenging validity of the impugned section 153C assessments itself. There is no dispute between the parties that the learned departmental authorities had carried out the search in question in M/s Elan Group on 29.05.2018. Learned CIT-DR vehemently submits that it was the said search which led to seizure of the corresponding incriminating material followed by section 153C satisfaction recorded in the set twin assessee’s cases on 19.01.2021. That being the case, there would be hardly any quarrel in light of PCIT vs. Jasjit Singh (2024) 336 CTR 634 (Delhi) and PCIT vs. Ojus Medicare Pvt. Ltd. (2024) 465 ITR 101 (Del.) that the date of initiation of the search in question in an instance of invocation of section 153C(1) is the proviso could be that of recording of the satisfaction itself which comes to be on 19.01.2021 only.”

4. A perusal of the case records next indicates that the learned Assessing Officer had recorded his satisfaction on 19.01.2021 followed by issuance of his notice dated 27.01.2021 to the assessee(s) as follows:

“I have gone through the above mentioned documents and I am satisfied that above mentioned documents seized from the premises of M/s Elan India Pvt. Ltd., M/s Best Selling Realty Pvt. Ltd., M/s K & T Realty Services Pvt. Ltd., Golfview Corporate Tower, 2nd / 3rd Floor, Golf Course Road, Sector-12, Gurugram, Haryana-122001 party AP-6 & Ap-6A during the course of search belong to/contain information which relates M/s Elan Ltd. (PAN: AADCE3341G) and have a bearing on the determination of its total income. Hence, notice u/s 153C of the Income Tax Act, 1961 is being issued for A.Ys. 2013-14 to 2018-19 and notice u/s 143(2) for A.Y. 2019-20.”

5. Faced with this situation, Mr. Sidhu vehemently argues that the learned assessing authority had rightly proceeded against the assessee(s) after recording his satisfaction that the seized material in question “belong to/contain information which relates to M/s Elan Ltd.” His endeavour therefore is to support the above section 153C satisfaction as strictly in tune with the provisions of the Act.

6. We have given our thoughtful consideration to the assessee’s and the Revenue’s foregoing vehement contentions regarding validity of the impugned satisfaction.

We find no merit to express our concurrence with the Revenue's stand herein. We make it clear first of all that the learned Assessing Officer had admittedly involved both the foregoing statutory expressions "belongs to" as well as "relates to" herein which could not be held as a proper satisfaction in accordance with law . This is for the precise reason that the legislature has itself incorporated the foregoing former expression of "belongs to" as involving "any money, bullion, jewellery....." etc . in subclause (a) and the latter category of "pertains to" or "relates to"; for any books of account or documents etc.; respectively. Learned CIT-DR couldn't rebut the clinching fact that the assessing authority's foregoing satisfaction has used both the above statutory expressions as inter changeable which is not in accordance with stricter interpretation in light of Commissioner Vs. Dilip Kumar (2018) 9 SSC 1 (SC). This is indeed coupled with the fact that the tribunal's learned "Third Member" in Prashant Premchand Bafana Vs. Addl. CIT [IT-462-ITAT-2025 (Pine)] has already settled the issue in the assessee's favour that the above three statutory expressions have to be used in the specified circumstances thus treating them as interchangeable one. We are accordingly of the considered view that given the fact that the ins tant issue stand settled upto hon'ble Third Member u/s 255(4) of the Act, the impugned satisfaction herein has not been validly recorded which renders the corresponding assessment(s) herein as not sustainable in law. The same stand quashed in very terms therefore.

6. After going through the order of the Co-ordinate Bench of the Tribunal, we feel there is no need to make any inference in the findings given by the co-ordinate Bench of the Tribunal on this issue as cited above. Accordingly, the assessee appeal on this issue is allowed.

7. Since, the appeal has been allowed on the technical issue of initiation of proceedings under section 153C of the Act and the assessment order has been quashed, therefore, we are not inclined to give any findings on the other grounds of appeal raised by the assessee in this appeal.

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

Order pronounced in the open court on 16th February, 2026.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER
Dated 16.02.2026

Shekhar

Copy forwarded to:

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

Sd/-
[KRINWANT SAHAYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi,