

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

BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

AND

SHRI AMITABH SHUKLA, ACCOUNTNAT MEMBER

ITA Nos.3643, 3644, 3645, 3646 To 3647/DEL/2025

[Assessment Years: 2015-16, 2016-17, 2019-20, 2020-21 and 2021-22]

M/s JSP Projects Private Limited, C/o-CA Vaibhav Goel, 75 Navyug Market, 1 st Floor, Ghaziabad, Uttar Pradesh-201001	Vs	DCIT, Central Circle-13, 2 nd Floor, Income Tax Building, E-2, ARA Centre, Jhandewalan Extension Delhi-110055
PAN-AADCJ0677L		
Assessee		Revenue

Assessee by	Shri Ved Jain, Adv. Ms. Uma Upadhyay, CA
Revenue by	Ms. Rajinder Kaur, CIT-DR
Date of Hearing	26.02.2026
Date of Pronouncement	09.03.2026

ORDER

PER AMITABH SHUKLA, AM,

This bunch of five appeals filed by the assessee is against order all dated 25.03.2025 of the learned Commissioner of Income Tax(Appeals)-25, New Delhi, [hereinafter referred to as 'ld. CIT(A)] arising out of respective assessment orders passed under section 153A/153C and 143(3) of the Income Tax Act, 1961 pertaining to Assessment Years 2015-16, 2016-17, 2019-20, 2020-21 and 2021-22, respectively. The word 'Act' herein this order would mean Income Tax Act, 1961.

2. All the above appeals of the assessee were heard together and for the purposes of convenience are being adjudicated by this common order.

ITA Nos.3643 to 3645/Del/2025 (Assessment Years-2015-16, 2016-17 and 2019-20)

3. The assessee has raised following grounds of appeal in ITA No.3643/Del/2025:-

No incriminating material qua the appellant found

1. That on the facts and in the circumstances of the case, and in law, the learned CIT(A) erred in upholding the assumption of jurisdiction by the learned Assessing Officer under Section 153C of the Income-tax Act, 1961, for the assessment year under consideration, without the existence of any incriminating material qua the appellant, found during the course of search conducted on Alankit Group. That, ledgers produced during the reassessment proceedings u/s 153C cannot per se be regarded as incriminating material available with the Assessing Officer; That the assessment order passed under section 153C of the Income Tax Act, 1961 is bad in law, void ab initio, and without jurisdiction, and therefore deserves to be quashed.

Initiation of Proceedings barred by limitation - 'Cash Credit' is not asset

2. That on the facts and in the circumstances of the case, and in law, the learned CIT(A) erred in upholding the assumption of jurisdiction by the learned Assessing Officer under Section 153C of the Income-tax Act, 1961, for the assessment year under consideration, without appreciating that, in terms of the proviso to Section 153C, the "date of search" is to be reckoned as 15.02.2022 (the date of receipt of documents by the AO having jurisdiction). Since AY 2015-16 falls outside the six-year period (AYs 2016-17 to 2021-22), and no satisfaction was recorded that the escaped income is represented by an asset, the initiation of proceedings is bad in law.

Non-supply of satisfaction note prepared by AO of searched person

3. That in the facts and circumstances of the case, the Ld. CIT(A) erred in law in sustaining the action of Ld AO in completing the assessment proceedings u/s 153C of the Act for the assessment year under consideration without bringing on record the copy of the satisfaction note recorded by the Ld AO having jurisdiction over the searched person. That, the assessment order passed u/s 153C without satisfying the mandatory jurisdiction condition is not valid in law;

Mechanical recording of facts in satisfaction note

4. That in the facts and circumstances of the case and in law, Ld CIT(A) erred in sustaining the assumption of jurisdiction based on the satisfaction note recorded by Ld DCIT, Circle - 13(1) Delhi in mechanical and ritualistic manner; That, the satisfaction note does not reflect any application of mind towards evidence available on record;

Invalid Order u/s 127(2) of the Income Tax Act, 1961

5. That in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the assumption of jurisdiction by the Ld. DCIT, Central Circle-28, Delhi, based on a transfer order under Section 127(2) of the Income Tax Act, 1961, without recording any reasons. That the order passed under Section 127(2) of the Income Tax Act, 1961 by the PCIT-4, Delhi, based merely on a letter from ITO (Hqrs)-1 O/o CCIT(Central) - 2 and without the agreement or concurrence of an officer of equal rank, is invalid in law, and consequently, all assessment proceedings made thereafter by Ld DCIT, CC -28 are also invalid.

Non-compliance with Section 65B of Indian Evidence Act 1872/section 63 of BSA 2023

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in sustaining the addition of Rs. 16,65,00,000/- on the basis of soft data/ excel sheet seized during search action at the premises of third person, which does not qualify to be admitted as evidence without bringing any independent corroborative evidence on record and that too without providing certificate u/s 65B of the Indian Evidence Act, 1872. Hence, addition made of Rs.16,65,00,000/- merely on the basis of alleged un-substantiated soft data/ excel sheets, is bad in law and is liable to be quashed.

Addition u/s 68 of the Income Tax Act, 1961 not attracted

7. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining the addition of Rs. 16,65,00,000/- u/s 68 of the Act on account of unexplained source of receipt of unsecured loan by arbitrarily rejecting the explanation and documentary evidences put forth by the appellant to discharge its onus u/s 68 of the Act without pointing out any defector shortcoming by conducting any independent enquiry. That, the provisions of section 68 of the Income Tax Act, 1961 are not applicable on facts of the case.

Peak Theory

8. Without prejudice to other grounds of appeal and that on facts and in the circumstances of the case and in law and, the benefit of peak theory is available by arranging all credits and debits appearing in different accounts in chronological order and that addition of Rs 8,95,00,000/- u/s 68 of the Income Tax Act, 1961 during the impugned AY is unwarranted and double taxation of same funds;

Addition u/s 69C of the Income Tax Act, 1961 not attracted

9. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) in sustaining addition of Rs. 49,95,000/- u/s 69C of the Act being notional commission estimated @ 3 percent on receipt of unsecured loan and interest of Rs. 16,65,00,000/- without adducing any corroborative evidence on record which could prove the payment of alleged commission by the appellant company. Hence, addition made of Rs. 49,95,000/- u/s 69C of the Act on the basis of doubt, suspicion, conjecture and surmises is bad in law and is liable to be deleted.

Violation of principle of natural justice

10. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining addition of Rs. 16,65,00,000/-u/s 68 of the Act on account of unexplained source of receipt of unsecured loan and interest on the basis of unsubstantiated statement of third persons without providing complete copy of their statement and also without providing opportunity of cross-examination of said deponents even though specifically requested by the appellant. That, addition made without disclosing the information and material in the possession of Ld AO is per se violative of the principles of fairness. Hence,

addition made of Rs. 16,65,00,000/-u/s 68 of the Act in violation of principle of natural justice, is bad in law and is liable to be deleted.

11. That on facts and circumstances of the case and in law, Ld CIT(A) erred in sustaining the action of the Ld AO without appreciating that no show cause notice was issued during the course of the assessment proceedings in terms of CBDT Instruction No 20/2015 (Para 4) dated 29.12.2015.

4. The assessee has raised following grounds of appeal in ITA No.3644/Del/2025

No incriminating material qua the appellant found

1. That on the facts and in the circumstances of the case, and in law, the learned CIT(A) erred in upholding the assumption of jurisdiction by the learned Assessing Officer under Section 153C of the Income-tax Act, 1961, for the assessment year under consideration, without the existence of any incriminating material qua the appellant, found during the course of search conducted on Alankit Group. That, ledgers produced during the reassessment proceedings u/s 153C cannot per se be regarded as incriminating material available with the Assessing Officer; That the assessment order passed under section 153C of the Income Tax Act, 1961 is bad in law, void ab initio, and without jurisdiction, and therefore deserves to be quashed.

Non-supply of satisfaction note prepared by AO of searched person

2. That in the facts and circumstances of the case, the Ld. CIT(A) erred in law in sustaining the action of Ld AO in completing the assessment proceedings u/s 153C of the Act for the assessment year under consideration without bringing on record the copy of the satisfaction note recorded by the Ld AO having jurisdiction over the searched person. That, the assessment order passed u/s 153C without satisfying the mandatory jurisdiction condition is not valid in law;

Mechanical recording of facts in satisfaction note

3. That in the facts and circumstances of the case and in law, Ld CIT(A) erred in sustaining the assumption of jurisdiction based on

the satisfaction note recorded by Ld DCIT, Circle - 13(1) Delhi in mechanical and ritualistic manner; That, the satisfaction note does not reflect any application of mind towards evidence available on record;

Invalid Order u/s 127(2) of the Income Tax Act, 1961

4. That in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the assumption of jurisdiction by the Ld. DCIT, Central Circle-28, Delhi, based on a transfer order under Section 127(2) of the Income Tax Act, 1961, without recording any reasons. That the order passed under Section 127(2) of the Income Tax Act, 1961 by the PCIT-4, Delhi, based merely on a letter from TO (Hqrs)-1 0/o CCIT(Central) - 2 and without the agreement or concurrence of an officer of equal rank, is invalid in law, and consequently, all assessment proceedings made thereafter by Ld DCIT, CC -28 are also invalid.

Non-compliance with Section 65B of Indian Evidence Act 1872/section 63 of BSA 2023

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred on fact and in law in sustaining the addition of Rs. 3,68,95,000/- on the basis of soft data/ excel sheet seized during search action at the premises of third person, which does not qualify to be admitted as evidence without bringing any independent corroborative evidence on record and that too without providing certificate u/s 65B of the Indian Evidence Act, 1872. Hence, addition made of Rs. 3,68,95,000/- merely on the basis of alleged un-substantiated soft data/ excel sheets, is bad in law and is liable to be quashed.

Addition u/s 69A of the Income Tax Act, 1961 not attracted

6. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining the addition of Rs. 3,68,95,000/- u/s 69A of the Act on account of unexplained source of receipt of unsecured loan by arbitrarily rejecting the explanation and documentary evidences put forth by the appellant to discharge its onus u/s 69A of the Act without pointing out any defect or shortcoming by conducting any independent enquiry. That, the provisions of section 69A of the Income Tax Act, 1961 are not applicable on facts of the case.

Peak Theory

7. Without prejudice to other grounds of appeal and that on facts and in the circumstances of the case and in law and, the benefit of peak theory is available by arranging all credits and debits appearing in different accounts in chronological order and that addition of Rs 3,68,95,000/-u/s 68 of the Income Tax Act, 1961 during the impugned AY is unwarranted and double taxation of same funds;

Addition u/s 69C of the Income Tax Act, 1961 not attracted

8. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) in sustaining addition of Rs. 11,06,850/- u/s 69C of the Act being notional commission estimated @ 3 percent on receipt of unsecured loan of Rs. 3,68,95,000/- without adducing any corroborative evidence on record which could prove the payment of alleged commission by the appellant company. Hence, addition made of Rs. 11,06,850/- u/s 69C of the Act on the basis of doubt, suspicion, conjecture and surmises is bad in law and is liable to be deleted.

Violation of principle of natural justice

9. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining addition of Rs. 3,68,95,000/-u/s 69A of the Act on account of unexplained source of receipt of unsecured loan and interest on the basis of unsubstantiated statement of third persons without providing complete copy of their statement and also without providing opportunity of cross-examination of said deponents even though specifically requested by the appellant. That, addition made without disclosing the information and material in the possession of Ld AO is per se violative of the principles of fairness. Hence, addition made of Rs. 3,68,95,000/-u/s 69A of the Act in violation of principle of natural justice, is bad in law and is liable to be deleted.

10. That on facts and circumstances of the case and in law, Ld CIT (A) erred in sustaining the action of the Ld AO without appreciating that no show cause notice was issued during the course of the assessment proceedings in terms of CBDT Instruction No 20/2015 (Para 4) dated 29.12.2015.

5. The assessee has raised following grounds of appeal in ITA No.3645/Del/2025:-

No incriminating material qua the appellant found

1. That on the facts and in the circumstances of the case, and in law, the learned CIT(A) erred in upholding the assumption of jurisdiction by the learned Assessing Officer under Section 153C of the Income-tax Act, 1961, for the assessment year under consideration, without the existence of any incriminating material qua the appellant, found during the course of search conducted on Alankit Group. That, ledgers produced during the reassessment proceedings u/s 153C cannot per se be regarded as incriminating material available with the Assessing Officer; That the assessment order passed under section 153C of the Income Tax Act, 1961 is bad in law, void ab initio, and without jurisdiction, and therefore deserves to be quashed.

Non-supply of satisfaction note prepared by AO of searched person

2. That in the facts and circumstances of the case, the Ld. CIT(A) erred in law in sustaining the action of Ld AO in completing the assessment proceedings u/s 153C of the Act for the assessment year under consideration without bringing on record the copy of the satisfaction note recorded by the Ld AO having jurisdiction over the searched person. That, the assessment order passed u/s 153C without satisfying the mandatory jurisdiction condition is not valid in law;

Mechanical recording of facts in satisfaction note

3. That in the facts and circumstances of the case and in law, Ld CIT(A) erred in sustaining the assumption of jurisdiction based on the satisfaction note recorded by Ld DCIT, Circle - 13(1) Delhi in mechanical and ritualistic manner; That, the satisfaction note does not reflect any application of mind towards evidence available on record;

Invalid Order u/s 127(2) of the Income Tax Act, 1961

4. That in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the assumption of jurisdiction by the Ld. DCIT, Central Circle-28, Delhi, based on a transfer order

under Section 127(2) of the Income Tax Act, 1961, without recording any reasons. That the order passed under Section 127(2) of the Income Tax Act, 1961 by the PCIT-4, Delhi, based merely on a letter from TO (Hqrs)-1 0/o CCIT(Central) - 2 and without the agreement or concurrence of an officer of equal rank, is invalid in law, and consequently, all assessment proceedings made thereafter by Ld DCIT, CC -28 are also invalid.

Non-compliance with Section 65B of Indian Evidence Act 1872/section 63 of BSA 2023

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred on fact and in law in sustaining the addition of Rs.3,80,00,000/-on the basis of soft data/ excel sheet seized during search action at the premises of third person, which does not qualify to be admitted as evidence without bringing any independent corroborative evidence on record and that too without providing certificate u/s 65B of the Indian Evidence Act, 1872. Hence, addition made of Rs.3,80,00,000/- merely on the basis of alleged un-substantiated soft data/ excel sheets, is bad in law and is liable to be quashed.

Addition u/s 69A of the Income Tax Act, 1961 not attracted

6. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining the addition of Rs.3,80,00,000/- u/s 69A of the Act on account of unexplained source of receipt of unsecured loan by arbitrarily rejecting the explanation and documentary evidences put forth by the appellant to discharge its onus u/s 69A of the Act without pointing out any defect or shortcoming by conducting any independent enquiry. That, the provisions of section 69A of the Income Tax Act, 1961 are not applicable on facts of the case.

Peak Theory

7. Without prejudice to other grounds of appeal and that on facts and in the circumstances of the case and in law and, the benefit of peak theory is available by arranging all credits and debits appearing in different accounts in chronological order and that addition of Rs 3,68,95,000/-u/s 68 of the Income Tax Act, 1961 during the impugned AY is unwarranted and double taxation of same funds;

Addition u/s 69C of the Income Tax Act, 1961 not attracted

8. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) in sustaining addition of Rs.11,40,000/- u/s 69C of the Act being notional commission estimated @ 3 percent on receipt of unsecured loan of Rs.3,80,00,000/- without adducing any corroborative evidence on record which could prove the payment of alleged commission by the appellant company. Hence, addition made of Rs. 11,40,000/- u/s 69C of the Act on the basis of doubt, suspicion, conjecture and surmises is bad in law and is liable to be deleted.*

Violation of principle of natural justice

9. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining addition of Rs.3,80,00,000/-u/s 69A of the Act on account of unexplained source of receipt of unsecured loan and interest on the basis of unsubstantiated statement of third persons without providing complete copy of their statement and also without providing opportunity of cross-examination of said deponents even though specifically requested by the appellant. That, addition made without disclosing the information and material in the possession of Ld AO is per se violative of the principles of fairness. Hence, addition made of Rs.3,80,00,000/- u/s 69A of the Act in violation of principle of natural justice, is bad in law and is liable to be deleted.*

10. *That on facts and circumstances of the case and in law, Ld CIT (A) erred in sustaining the action of the Ld AO without appreciating that no show cause notice was issued during the course of the assessment proceedings in terms of CBDT Instruction No 20/2015 (Para 4) dated 29.12.2015.*

6. In all the above three appeals, the appellant has raised legal grounds as well as challenged the merits of the addition. As all the three appeals are on common issues qua legality of assessment and merits of additions, we will take the legality of assessment in assessee's appeal in ITA No.3643/Del/2025 first. The decision taken shall apply mutatis mutandis in ITA No.3644 and 3645/Del/2025 are also.

7. We have heard rival submission in the light of material available on records. The ld. Counsel for the assessee vehemently argued that the facts of the case for AY 2015-16 in assessee's appeal in ITA No.3643/Del/2025 are identical to those in its appeal for AY 2014-15 contested by it in ITA No.3594/Del/2025. It was submitted that this Tribunal, after consideration of the varied facts of the case, has decided the matter in assessee's favour. The ld. Counsel argued that accordingly, the same ratio be applied in the present appeal and its appeal be allowed.

8. The ld. DR relied upon the order of the lower authorities. Nothing though was brought on record to indicate any distinguishment of facts of these appeals with those in appeal for AY 2014-15 contested by it in ITA No.3594/Del/2025.

9. We have noted that this Tribunal in ITA No.3594/Del/2025 for AY 2014-15 has held as under:-

“.....4. It is the case of the assessee that the assessment order under section 153C for AY 2014-15 is void ab initio and is bad in law. The ld. counsel for the assessee submitted that search in case of Alankit Group was conducted on 18.10.2019 under section 132. The AO of the searched person handed over the seized documents to the AO of the assessee on 14.02.2022. Reference was invited to relevant satisfaction note placed on page-71 and 72 of the paper book filed by the assessee. The ld. Counsel submitted that in the present case, Return of Income was filed on 29.11.2014 and assessment under section 143(3) was completed on 06.12.2016. Thus, the assessment had attained finality. It was submitted that the issue is now res-integra that completed assessments could not be disturbed in the assessment under section 153C in the absence of any incriminating documents. The ld. Counsel argued that a

perusal of the satisfaction note and the assessment order under section 153C(supra) clearly shows that no incriminating documents was specifically seized as belonging to the assessee. It was argued that the seized material reproduced in the assessment order on pages 25, 31 to 33 alludes ledger accounts which contained disclosed entries and those which were duly accounted for in the books of accounts.

xxxxxx

9. *We have heard rival submissions in the light of materials placed on record. We have noted from the order of the ld. CIT(A) that the same concerns raised by the assessee have not been adequately handled. The decision of the ld. CIT(A) is primarily based upon lukewarm response to appellate proceedings. The facts of the case have not been properly analyzed by the First Appellate Authority. As regards, non-availability of incriminating document, we have found sufficient force in the arguments raised by the appellant. Perusal of the assessment order alludes that the ld. Assessing Officer has primarily made the addition on the basis of search and seizure operation carried out in the residential premises of one Shri Sunil Kumar Gupta an alleged close confidant of the Alankit Group and its Directors as well as information available in the seized HP laptop of Shri Gupta. Heavy reliance has also been placed upon the sworn statement of Shri Gupta under section 132(4) dated 18.10.2019. There is nothing substantial in the reasons recorded or the order under section 153C which allude towards any incriminating material found qua the assessee. The judicial precedents on the subject pronounced by Hon'ble Apex Court and Hon'ble Delhi High Court are categorically clear in laying down that no addition under section 153C can be made in cases where no incriminating material has been found. Accordingly, in respectful compliance to the decision of Hon'ble Apex Court in *Abhisar Buildwell, U.K. Paints (Overseas) Ltd.*, and of Hon'ble Delhi High Court in *Kabul Chawla (supra)*, it is held that the order under section 153C passed by the ld. AO in the case of the assessee is bad in law and therefore the order of lower authorities is set-aside and the order under section 153C is quashed. The ground of appeal no.1 raised by the assessee is allowed.*

10. *The assessee has succeeded on its legal grounds qua jurisdictional sufficiency, all the other grounds of appeal*

raised by the assessee nos. 2 to 10 on other legal grounds as well as the merits of the addition, have become academic in nature and hence left open.....”

10. In view of the position discussed above and respectful compliance to the cited judicial precedent as well as for the purposes of consistency, it is held that the order under section 153C passed by the Id. AO in the case of the assessee is bad in law and therefore the order of lower authorities is set-aside and the order under section 153C is quashed. The ground of appeal no.1 raised by the assessee is allowed.

11. Since, the assessee has succeeded on its legal grounds *qua* jurisdictional insufficiency, all the other grounds of appeal raised by the assessee, nos. 2 to 11 on other legal grounds as well as the merits of the addition, have become academic in nature and hence left open.

12. As the facts for AYs 2016-17 and 2019-20 in ITA Nos.3644 and 3645/Del/2025 are identical to ITA No.3643/Del/2025, the decision taken in ITA No.3643/Del/2025 shall apply *mutatis mutandis*. Accordingly, we set-aside and quash the order under section 153C of the Act contested by the assessee through ITA Nos.3644 and 3645/Del/2025 also.

ITA No.3646/Del/2025 and ITA No.3647/Del/2025

12. The assessee has raised following grounds of appeal **ITA No.3646/Del/2025**

No incriminating material qua the appellant and qua the AY found

1. That on the facts and in the circumstances of the case, and in law, the learned CIT(A) erred in sustaining the assessment order passed under section 153C of the Income Tax Act, 1961 is bad in law, void ab initio, and without jurisdiction, and therefore deserves to be quashed. That, no valid jurisdiction could be assumed without issuance of notice u/s 153C of the Income Tax Act, 1961.

Barred by Limitation - not the case of abated year

2. That on facts and in the circumstances of the case and in law, the assessment proceedings initiated by issuance of notice u/s 143(2) of the Income Tax Act, 1961 dated 29.06.2021 is barred by limitation as on 30.09.2022; that, the provisions relating to abatement under section 153C rws 153A of the Income Tax Act, 1961 are not applicable on the facts and circumstances of the case, as no valid jurisdictional trigger exists to invoke such abatement.

Non-supply of satisfaction note prepared by AO of searched person

3. That in the facts and circumstances of the case, the Ld. CIT(A) erred in law in sustaining the action of Ld AO in completing the assessment proceedings u/s 153C of the Act for the assessment year under consideration without bringing on record the copy of the satisfaction note recorded by the Ld AO having jurisdiction over the searched person. That, the assessment order passed u/s 153C without satisfying the mandatory jurisdiction condition is not valid in law;

Mechanical recording of facts in satisfaction note

4. That in the facts and circumstances of the case and in law, Ld CIT(A) erred in sustaining the assumption of jurisdiction based on the satisfaction note recorded by Ld DCIT, Circle - 13(1) Delhi in mechanical and ritualistic manner; That, the satisfaction note does not reflect any application of mind towards evidence available on record;

Invalid Order u/s 127(2) of the Income Tax Act, 1961

5. That in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the assumption of jurisdiction by the Ld. DCIT, Central Circle-28, Delhi, based on a transfer order under Section 127(2) of the Income Tax Act, 1961, without recording any reasons. That the order passed under Section 127(2) of the Income Tax Act, 1961 by the PCIT-4, Delhi, based merely on a letter from

ITO (Hqrs)-1 0/o CCI(Central) - 2 and without the agreement or concurrence of an officer of equal rank, is invalid in law, and consequently, all assessment proceedings made thereafter by Ld DCIT, CC-28 are also invalid.

Non-compliance with Section 65B of Indian Evidence Act 1872/section 63 of BSA 2023

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred on fact and in law in sustaining the addition of Rs. 2,03,402/- on the basis of soft data/ excel sheet seized during search action at the premises of third person, which does not qualify to be admitted as evidence without bringing any independent corroborative evidence on record and that too without providing certificate u/s 65B of the Indian Evidence Act, 1872. Hence, addition made of Rs. 2,03,402/- merely on the basis of alleged un-substantiated soft data/ excel sheets, is bad in law and is liable to be quashed.

Addition u/s 69A of the Income Tax Act, 1961 not attracted

7. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining the addition of Rs. 2,03,402/- u/s 69A of the Act on account of unexplained source of repayment of unsecured loan and interest by arbitrarily rejecting the explanation and documentary evidences put forth by the appellant to discharge its onus u/s 69A of the Act without pointing out any defector shortcoming by conducting any independent enquiry. That, the provisions of section 69A of the Income Tax Act, 1961 are not applicable on facts of the case.

Addition u/s 69C of the Income Tax Act, 1961 not attracted

8. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) in sustaining addition of Rs. 6,102/- u/s 69C of the Act being notional commission estimated @ 3 percent on repayment of unsecured loan and interest of Rs. 2,03,402/- without adducing any corroborative evidence on record which could prove the payment of alleged commission by the appellant company. Hence, addition made of Rs. 6,102/- u/s 69C of the Act on the basis of doubt, suspicion, conjecture and surmises is bad in law and is liable to be deleted.

Violation of principle of natural justice

9. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining addition of Rs.2,03,402/- u/s 69A of the Act on account of unexplained source of repayment of

unsecured loan and interest on the basis of un-substantiated statement of third persons without providing complete copy of their statement and also without providing opportunity of cross-examination of said deponents even though specifically requested by the appellant. Thai, addition made without disclosing the information and material in the possession of La AO is per se violative of the principles of fairness. Hence, addition made of Rs. 2,03,402/-u/s 69A of the Act in violation of principle of natural justice, is bad in law and is liable to be deleted.

10. That on facts and circumstances of the case and in law, La CIT(A) erred in sustaining the action of the Id AO without appreciating that no show cause notice was issued during the course of the assessment proceedings in terms of CBDT Instruction No 20/2015 (Para 4) dated 29.12.2015.

13. The assessee has raised following grounds of appeal **ITA No.3647/Del/2025**

1. That on the facts and in the circumstances of the case and in law, the assessment order u/s 143(3) of the Income Tax Act, 1961 is bad in law;

Reasons for selecting the case for scrutiny not specified

2. Without prejudice to other grounds of appeal, that on the facts and in the circumstances of the case and in law, the notice issued u/s 143(2) of the Income Tax Act, 1961 dated 28.06.2022 is invalid having been issued in complete breach of C.B.D.T. Instruction F. No. 225/157/2017/ITA-II dated 23-06-2017 and the impugned inaction on that account renders the assessment order framed ab initio void, ultra vires and null in law.

Approval obtained u/s 153D - not applicable on facts

3. That in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the assessment order framed after obtaining approval u/s 153D of the Income Tax Act, 1961 merely considering the AY as 'search year' ignoring the fact that neither any satisfaction was recorded for the impugned AY nor any notice u/s 153C was issued for the AY concerned;

3.1. That the concerned assessment year is not covered by any of the AY mentioned u/s 153B of the Income Tax Act, 1961 requiring any

prior statutory approval u/s 153D of the Income Tax Act, 1961. That Ld DCIT has exercised her discretion under the direction or in compliance with Ld Addl CIT's prior approval, she had failed to exercise her jurisdiction altogether.

Non-service of notice u/s 143(2) of the Income Tax Act, 1961 within the limitation period

4. That, on the facts and in the circumstances of the case and in law, the learned CIT(A) erred in sustaining the assessment proceedings by treating mere uploading of the notice under section 143(2) on the ITBA portal-without any real-time alert via SMS or email—as valid issuance or service of notice within the prescribed limitation period.

4.1. That the learned CIT(A) further erred in recording an incorrect factual finding that the appellant had not raised this issue before the Assessing Officer, while ignoring the documented objections and corresponding acknowledgment filed by the appellant, as placed in the Paper Book.

Invalid Order u/s 127(2) of the Income Tax Act, 1961

5. That in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the assumption of jurisdiction by the Ld. DCIT, Central Circle-28, Delhi, based on a transfer order under Section 127(2) of the Income Tax Act, 1961, without recording any reasons. That the order passed under Section 127(2) of the Income Tax Act, 1961 by the PCIT-4, Delhi, based merely on a letter from ITO (Hqrs)-1 0/o CCIT(Central) - 2 and without the agreement or concurrence of an officer of equal rank, is invalid in law, and consequently, all assessment proceedings made thereafter by Ld DCIT, CC-28 are also invalid.

Ground of Appeal not adjudicated by CIT (A)

6. That, on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in not adjudicating the specific ground raised regarding the invalid transfer of jurisdiction under section 127(2) of the Income-tax Act, 1961, which was carried out by an incompetent authority, rendering the assessment without proper jurisdiction.

Non-compliance with Section 65B of Indian Evidence Act 1872/section 63 of BSA 2023

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred on fact and in law in sustaining the addition of Rs.

11,13,114/- on the basis of soft data/ excel sheet seized during search action at the premises of third person, which does not qualify to be admitted as evidence without bringing any independent corroborative evidence on record and that too without providing certificate u/s 65B of the Indian Evidence Act, 1872. Hence, addition made of Rs. 11,13,114/- merely on the basis of alleged un-substantiated soft data/ excel sheets, is bad in law and is liable to be quashed.

Addition u/s 37(1) of the Income Tax Act, 1961 not attracted

8. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining the addition of Rs. 11,13,114/- u/s 37(1) of the Act on account of unexplained source of repayment of unsecured loan and interest by arbitrarily rejecting the explanation and documentary evidences put forth by the appellant to discharge its onus u/s 37(1) of the Act without pointing out any defect or shortcoming by conducting any independent enquiry. That, the provisions of section 37(1) of the Income Tax Act, 1961 are not applicable on facts of the case.

Restriction of claim of TDS credit

9. That, on the facts and in the circumstances of the case and in law, the learned CIT(A) erred in merely remanding the issue relating to the TDS claim of 255,79,131/- to the file of the Assessing Officer for verification, without recording any reasoning or findings, and despite the remand, the Assessing Officer has not passed the order giving effect to such directions till date.

Violation of principle of natural justice

10. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining addition of Rs. 11,13, 114/-u/s 37(1) of the Act on account of unexplained source of repayment of unsecured loan and interest on the basis of un-substantiated statement of third persons without providing complete copy of their statement and also without providing opportunity of cross-examination of said deponents even though specifically requested by the appellant. Hence, addition made of Rs. 11,13,114/-u/s 37(1) of the Act in violation of principle of natural justice, is bad in law and is liable to be deleted.

11. That on facts and circumstances of the case and in law, Ld CIT(A) erred in sustaining the action of the Ld AO without appreciating that no show cause notice was issued during the course of the assessment proceedings in terms of CBDT Instruction No 20/2015 (Para 4) dated 29.12.2015.

14. We have heard rival submissions in the light of material available on records. The short point raised by the Ld council for the assessee through its above-mentioned additional ground of appeal dated 25/02/26 is that AYs 2020-21 & 2021-22 fall within the block of six assessment years contemplated under section 153C read with section 153A. Once proceedings under section 153C were triggered on 14.02.2022, the assessment for AYs 2020-21 & 2021-22 could only have been framed in accordance with section 153C read with section 153A. It has been submitted that in its case the search was conducted on 18/10/2019 and that the satisfaction qua assessee was recorded by the AO of searched person on 14/2/2022. In this regard, it is submitted that in respect of the assessment proceedings under section 153C of the Act, the block period of six assessment years has to be reckoned from the date on which the seized material is received by the Assessing Officer having jurisdiction over the assessee (i.e., the "other person"). Thus, it has been indicated that the block of 6 assessment years to be reckoned from the date of deemed search u/s 153C would be AY's 2016-17 to AY's 2021-22. However, in the present case, the Assessing Officer has framed the assessment for AYs 2020-21 & 2021-22 under section 143(3) of the Act, disregarding the mandatory scheme of section 153C. Such an assessment, having been framed outside the statutory framework applicable to a case falling under section 153C, is without jurisdiction and liable to be quashed. In support of its contentions the Ld council has placed reliance upon the principle laid down by the Hon'ble ITAT Delhi in the case of JASJIT

SINGH VERSUS ACIT, CENTRAL CIRCLE-11, NEW DELHI AND VICE-VERSA, 2014 holding that the relevant date for computing the six assessment years under section 153C is the date of recording of satisfaction and receipt of seized material by the Assessing Officer of the assessee, and not the date of search in the case of the searched person. The relevant para of the above judgement is as under:

"13. We find that there is no dispute on the relevant facts of the case that search and seizure operation u/s 132 of the Act in the case of Koutons was conducted on 19/02/2009 which is relevant to the F.Y. 01/04/2008 to 31/03/2009 and the relevant assessment year is 2009-10. It is also undisputed that the case of the assessee was centralized by Id. CIT u/s 127 of the Act and the jurisdiction of the assessee from Ward 25(3) to Central Circle 11 was transferred on 16/06/2009, hence previous year would be 01/04/2009 to 31/03/2010 and the A.Y will be 2010-11. On the basis of these facts the contention of the assessee in the additional ground is that the assessment order framed u/s 143(3) of the Act for the assessment year in question is not valid and not maintainable. As per him, the date of search in the case of the present assessee would be the date i.e. 16/06/2009 when documents belonging to the assessee (found during the course of search) were handed over and jurisdiction for framing the assessment was transferred to the AO having jurisdiction for the assessment on the assessee. Taking into account the date 16/06/2009 as date of search in the case of the assessee, the contention of the Id. AR remained that the search year in the case of assessee would be A.Y. 2010-11 and six previous assessment years would be 2009-10 to 2003-04. In other words, the regular assessment u/s 143(3) of the Act in the present case should have been framed for the assessment year 2010-11 and the assessment for the assessment year under consideration should have been framed u/s 153C read with 143(3) of the I.T. Act. In support the above cited decisions were relied upon by the Id. AR

- 1. The contention of the Id. CIT(DR on the contrary remained that the reference of proviso 1 of section 153C is only in relation to the second proviso to sub-section 1 of section 153A*

which speaks about the abatement of the pending proceedings of six assessment years and not regarding the assessment of the preceding six assessment years which will be the same as in section 153A as well as in section 153C of the Act. In this regard she placed reliance on the decision of Hon'ble Delhi High Court in the case of SSP Aviation Ltd. vs. DCIT (supra).

2. *We find that an identical issue has been decided by Delhi Bench of the Tribunal in the case of DSL Properties P. Ltd. (supra) in favour of the assessee accepting the similar contention of the assessee. Similar view has been expressed by the Delhi Bench of the Tribunal in the case of V.K. Fiscal (supra) holding that the date of receiving of the seized documents would become the date of search and six years period would be reckoned from this date. For a ready reference para no. 19, 21, 22 & 23 of the decision of Delhi Bench of the Tribunal in the case of DSL Properties (supra) are being reproduced hereunder:*

1. *We thus, find that the issue raised in the additional ground has been answered in favour of the assessee, by the Coordinate Delhi Bench of the Tribunal in the case of DSL Properties (supra).*
2. *So far as decision of Hon'ble Delhi High Court in the case of SSP Aviation Ltd. vs. DCIT (supra) relied upon by the Id. CIT(DR) is concerned, we find that it is not helpful to the revenue as in that case also in para no. 14 of the judgment it has been held as under:*

14. "Now there can be a situation when during the search conducted on one person u/s 132, some documents or valuable assets or books of account belonging to some other person, in whose case the search is not conducted, may be found. In such case, the AO has to first be satisfied u/s 153C, which provides for the assessment of income of any other person, i.e., any other person who is not covered by the search, that the books of account or other valuable article or document belongs to the other person (person other than the one searched). He shall hand over the valuable article or books of account or document to the AO having jurisdiction over the other person. Thereafter, the AO having jurisdiction over the other person has to proceed against him and issue notice to that person in order to assess or reassess the income of such other person in the manner contemplated by the provisions of section 153A.

Now a question may arise as to the applicability of the second proviso to section 153A in the case of the other person, in order to examine the question of pending proceedings which have to abate. In the case of the searched person, the date with reference to which the proceedings for assessment or reassessment of any assessment year within the period of the six assessment years shall abate, is the date of initiation of the search u/s 132 or the requisition u/s 132A. For instance, in the present case, with reference to the Puri Group of Companies, such date will be 5.1.2009. However, in the case of the other person, which in the present case is the petitioner herein, such date will be the date of receiving the books of account or documents or assets seized or requisition by the AO having jurisdiction over such other person. In the case of the other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date."

18. In view of the above finding, the assessment framed u/s 143(3) of the Act for the A.Y. 2009-10 in the present case is not valid. Respectfully following the above cited decisions on an identical issue, the additional ground no. 4 in the present case is decided in favour of the assessee and in the result the assessment order is quashed as void...."

15. It was submitted that the aforesaid decision of the Hon'ble ITAT Delhi was carried in appeal by the Revenue before the Hon'ble Delhi High Court in Commissioner of Income Tax-14 versus Shree Jasjit Singh, 2015(8) TMI 982 – Delhi High Court, Dated. - August 11, 2015, wherein the Hon'ble High Court affirmed the findings of the Tribunal and upheld the view that the date of receipt of seized documents by the Assessing Officer of the "other person" is the deemed date of search for the purposes of section 153C of the Act. Thereafter, the matter was carried to the Hon'ble Supreme Court by the Revenue in Commissioner of Income Tax-14 vs Jasjit Singh, 2023(10) TMI 572 – Supreme Court, Dated.- September 26, 2023, wherein the Hon'ble Supreme

Court dismissed the appeal of the revenue affirming the judgment of the Hon'ble Delhi High Court, thereby settling the legal position conclusively. The Ld council further argued that impugned findings also echo in the decision of Hon'ble Delhi High Court in the case of the Pr. Commissioner of Income Tax-central-1 versus Ojjus medicare pvt. ltd. and others, 2024 (4) tmi 268 - delhi high court, Dated- April 3, 2024. Relevant finding of the Hon'ble High Court were cited as under-

"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.

E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs' would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section

153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books, of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under Section 153A."

16. Per contra the Ld DR placed reliance upon the order of lower authorities.

17. We have noted that the facts of present case are identical to those discussed in judicial precedents supra. There is no dispute regarding the dated of recording of satisfaction of Ld AO of searched person. Accordingly in respectful compliance to the binding judicial precedents of Hon'ble jurisdictional High Court as well as of Hon'ble Apex court, we are of the considered view that the Assessment order for the AY 20-21 ought to have been passed by the Ld AO invoking provisions of section 153C and that consequently the passing of assessment order by issuing notice u/s 143(2) of the Act has caused an incurable and fatal defect in the assessment order per se. Accordingly we set aside and quash the assessment order for AY 2020-21 challenged by the assessee in its ITA number 3646/Del/2025 through the additional ground of appeal.

18. As the assessee has succeeded in its appeal qua the additional ground of appeal which is a legal ground, all other grounds of appeal raised have become academic in nature and therefore dismissed as bereft of any meritorious adjudication.

19. As the facts of the case for Ay 2021-22 contested by the assessee through its ITA number 3647/Del/2025 are identical to those in ITA number 3646/Del/2025 above, the decision taken therein shall apply mutatis mutandis. Accordingly, we also set aside and quash the assessment order for AY 2021-22 challenged by the assessee in its ITA number 3647/Del/2025 through the additional ground of appeal.

20. In the result appeal of the assessee in ITA number 3646/Del/2025 and ITA number 3647/Del/2025 are allowed.

Order pronounced in the open court on 09th March, 2026.

Sd/-
[YOGESH KUMAR U.S.]
JUDICIAL MEMBER

Dated: 09.03.2026

Shekhar

Copy forwarded to:

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

Sd/-
[AMITABH SHUKLA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi,