

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on: 06 March, 2024**
Judgment pronounced on: 09 April, 2024

+ W.P.(C) 1459/2024 & CM APPL 6031/2024
SAKSHAM COMMODITIES LIMITED Petitioner
Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus
INCOME TAX OFFICER WARD 22(1), DELHI & ANR.
..... Respondent
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 3007/2023
MODICARE LIMITED Petitioner
Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus
DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 14 NEW DELHI Respondent
Through: Mr. Sanjay Kumar, Sr. Standing
Counsel along with Ms. Easha
Kadian and Ms. Hemlata Rawat,
Jr. Standing Counsels.

+ W.P.(C) 3019/2023
MODICARE LIMITED Petitioner
Through: Mr.Rohit Jain and Mr.Saksham

Singhal, Advs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 14 NEW DELHI Respondent

Through: Mr. Sanjay Kumar, Sr. Standing
Counsel along with Ms. Easha
Kadian and Ms. Hemlata Rawat,
Jr. Standing Counsels.

+ W.P.(C) 3681/2023

MODICARE LIMITED Petitioner

Through: Mr. Rohit Jain and Mr. Saksham
Singhal, Advs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 14 NEW DELHI Respondent

Through: Mr. Sanjay Kumar, Sr. Standing
Counsel along with Ms. Easha
Kadian and Ms. Hemlata Rawat,
Jr. Standing Counsels.

+ W.P.(C) 693/2024 & CM APPL 3073/2024

SUSHEEL JAIN Petitioner

Through: Mr. Gautam Jain, Ms. Reeta
Chudhary and Mr. Manish
Yadav, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANR Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.
Shivendra Singh & Mr. Puneet
Singhal, JSCs, Ms. Mahima Garg
& Ms. Deepika Goyal, Advs.

+ W.P.(C) 695/2024 & CM APPL 3078/2024
SUSHEEL JAINPetitioner
Through: Mr.Gautam Jain, Ms.Reeta
Chudhary and Mr.Manish
Yadav, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANR Respondents
Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 718/2024 & CM APPL 3176/2024
SUSHEEL JAINPetitioner
Through: Mr.Gautam Jain, Ms.Reeta
Chudhary and Mr.Manish
Yadav, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANR Respondents
Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 719/2024 & CM APPL 3181/2024
VIKAS WAHIPetitioner
Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE - 26, DELHI & ORS Respondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 721/2024 & CM APPL 3183/2024

VIKAS WAHIPetitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE - 26, DELHI & ORSRespondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 722/2024 & CM APPL 3190/2024

VIKAS WAHIPetitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 26, DELHI AND ORSRespondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 723/2024 & CM APPL 3194/2024

VIKAS WAHI.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,

Advvs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 26, DELHI AND ORS..... Respondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advvs.

+ W.P.(C) 726/2024 & CM APPL 3201/2024

VIKAS WAHIPetitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advvs.

Versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE 26, DLEHI AND ORS..... Respondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advvs.

+ W.P.(C) 792/2024 & CM APPL 3426/2024

MAMTA AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advvs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR..... Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 852/2024 & CM APPL 3611/2024
MAMTA AGARWAL.....Petitioner
Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR.....Respondents
Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 853/2024 & CM APPL 3613/2024
MAMTA AGARWAL.....Petitioner
Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR.....Respondents
Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 854/2024 & CM APPL 3615/2024
MAMTA AGARWAL.....Petitioner
Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR..... Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 870/2024 & CM APPL 3643/2024

MAMTA AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHIRespondent

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 871/2024 & CM APPL 3645/2024

MAMTA AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR..... Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 872/2024 & CM APPL 3647/2024

MAMTA AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR.....Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 874/2024 & CM APPL 3654/2024

MAMTA AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI & ANR.....Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 992/2024 & CM APPL 4114/2024

ASHUTOSH AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI AND ORS.....Respondents

Through: Mr.Shlok Chandra, Sr.SC with

Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 993/2024 & CM APPL 4116/2024
ASHUTOSH AGARWAL.....Petitioner
Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX ..
RESPONDENT 1 CENTRAL CIRCLE 28 DELHI AND ORS.
..... Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 1112/2024 & CM APPL 4686/2024
NARESH MITTAL
..... Petitioner
Through: Mr. Ved Jain, Mr. Nischay
Kantoor, Ms. Soniya Dodeja
and Mr. Animesh Tripathi,
Adv.

Versus

INCOME TAX OFFICER WARD 43(6) DELHI & ORS.
..... Respondents

Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 994/2024 & CM APPL 4118/2024
ASHUTOSH AGARWAL.....Petitioner
Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant

Agrawal and Mr.Prateek Bhati,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE 28, DELHI AND ORS Respondents

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 1005/2024 & CM APPL 4200/2024

ASHUTOSH AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI Respondent

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 1008/2024 & CM APPL 4210/2024

ASHUTOSH AGARWAL.....Petitioner

Through: Dr.Rakesh Gupta, Mr.Somil
Agarwal, Mr.Dushyant
Agrawal and Mr.Prateek Bhati,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX
(CENTRAL CIRCLE) 28 DELHI Respondent

Through: Mr.Shlok Chandra, Sr.SC with
Ms.Madhavi Shukla, Jr.SC,
Ms.Priya Sarkar, Jr.SC and
Mr.Ujjwal Jain, Adv.

+ W.P.(C) 1080/2024 & CM APPL 4517/2024
FOREVER BODY CARE INDUSTRIESPetitioner
Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

INCOME TAX OFFICER, WARD 34(1), DELHI AND ANR
..... Respondents
Through: Mr. Kunal Sharma, Sr.SC,
Ms.Zehra Khan, Jr.SC &
Mr.Shubhendu Bhattacharyya,
Adv.

+ W.P.(C) 1081/2024 & CM APPL 4518/2024
FOREVER BODYCARE INDUSTRIESPetitioner
Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

INCOME TAX OFFICER, WARD 34(1), DELHI AND ANR
..... Respondents
Through: Mr. Kunal Sharma, Sr.SC,
Ms.Zehra Khan, Jr.SC &
Mr.Shubhendu Bhattacharyya,
Adv.

+ W.P.(C) 1082/2024 & CM APPL 4521/2024
FOREVER BODY CARE INDUSTRIESPetitioner
Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

INCOME TAX OFFICER, WARD 34(I), DELHI & ANR.
..... Respondents

Through: Mr. Kunal Sharma, Sr.SC,
Ms.Zehra Khan, Jr.SC &
Mr.Shubhendu Bhattacharyya,
Adv.

+ W.P.(C) 1083/2024 & CM APPL 4523/2024
FOREVER BODY CARE INDUSTRIESPetitioner

Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

INCOME TAX OFFICER, WARD 34(1), DELHI & ANR.

..... Respondents

Through: Mr. Kunal Sharma, Sr.SC,
Ms.Zehra Khan, Jr.SC &
Mr.Shubhendu Bhattacharyya,
Adv.

+ W.P.(C) 1084/2024 & CM APPL 4525/2024
FOREVER BODY CARE INDUSTRIESPetitioner

Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

INCOME TAX OFFICER, WARD 34(1), DELHI & ANR.

..... Respondents

Through: Mr. Kunal Sharma, Sr.SC,
Ms.Zehra Khan, Jr.SC &
Mr.Shubhendu Bhattacharyya,
Adv.

+ W.P.(C) 1089/2024 & CM APPL 4599/2024
ASHISH AGRAWAL.....Petitioner

Through: Mr.Ruchesh Sinha and
Ms.Monalisa Maity, Advs.

Versus

ASSISSTANT COMMISSIONER OF INCOME TAX
CENTAL CIRCLE-28 DELHI & ANR.....Respondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 1092/2024 & CM APPL 4606/2024

ASHISH AGRAWAL.....Petitioner

Through: Mr.Ruchesh Sinha and
Ms.Monalisa Maity, Advs.

Versus

ASSISSTANT COMMISSIONER OF INCOME TAX
CENTAL CIRCLE-28 DELHI & ANR.....Respondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 1093/2024 & CM APPL 4608/2024

ASHISH AGRAWAL.....Petitioner

Through: Mr.Ruchesh Sinha and
Ms.Monalisa Maity, Advs.

Versus

ASSISSTANT COMMISSIONER OF INCOME TAX
CENTAL CIRCLE-28 DELHI & ANR.....Respondents

Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 1094/2024 & CM APPL 4610/2024

ASHISH AGRAWAL.....Petitioner

Through: Mr.Ruchesh Sinha and
Ms.Monalisa Maity, Advs.

Versus

ASSISSTANT COMMISSIONER OF INCOME TAX
CENTAL CIRCLE-28 DELHI & ANR.....Respondents

Through: Mr. Abhishek Maratha, Sr.SC

with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 1095/2024 & CM APPL 4612/2024
ASHISH AGRAWAL.....Petitioner
Through: Mr.Ruchesh Sinha and
Ms.Monalisa Maity, Advs.

Versus
ASSISSTANT COMMISSIONER OF INCOME TAX
CENTAL CIRCLE-28 DELHI & ANR.....Respondents
Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 1096/2024 & CM APPL 4614/2024
ASHISH AGRAWAL.....Petitioner
Through: Mr.Ruchesh Sinha and
Ms.Monalisa Maity, Advs.

Versus
ASSISSTANT COMMISSIONER OF INCOME TAX
CENTAL CIRCLE-28 DELHI & ANR.....Respondents
Through: Mr. Abhishek Maratha, Sr.SC
with Mr. Parth Semwal and
Ms. Nupur Sharma, Advs.

+ W.P.(C) 1117/2024 & CM APPL 4697/2024
NARESH MITTALPetitioner
Through: Mr. Ved Jain, Mr. Nischay
Kantoor, Ms. Soniya Dodeja
and Mr. Animesh Tripathi,
Advs.

Versus
INCOME TAX OFFICER WARD 43(6) DELHI & ORS.
..... Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1119/2024 & CM APPL 4700/2024
NARESH MITTAL Petitioner
Through: Mr. Ved Jain, Mr. Nischay
Kantoor, Ms. Soniya Dodeja
and Mr. Animesh Tripathi,
Adv.

Versus

INCOME TAX OFFICER WARD 43(6) DELHI & ORS.
..... Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1120/2024 & CM APPL 4702/2024
NARESH MITTAL Petitioner
Through: Mr. Ved Jain, Mr. Nischay
Kantoor, Ms. Soniya Dodeja
and Mr. Animesh Tripathi,
Adv.

Versus

INCOME TAX OFFICER WARD 43(6) DELHI & ORS.
..... Respondents
Through: Mr. Sunil Agarwal, Sr. Standing
Counsel along with Mr. Shivansh
B. Pandya, Jr. Standing Counsel
and Mr. Utkarsh Tiwari, Adv.

+ W.P.(C) 1287/2024 & CM APPL 5333/2024
SATYA PAL ARYA Petitioner
Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 31, DELHI Respondent

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1290/2024 & CM APPL 5339/2024

SATYA PAL ARYAPetitioner

Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 31, DELHI..... Respondent

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1311/2024 & CM APPL 5367/2024

SATYA PAL ARYAPetitioner

Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 31, DELHI..... Respondent

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1313/2024 & CM APPL 5369/2024

SATYA PAL ARYAPetitioner

Through: Mr.Raghvendra Singh,

Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 31, DELHI.....Respondent

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1317/2024 & CM APPL 5372/2024
SATYA PAL ARYAPetitioner

Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 31, DELHI.....Respondent

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1321/2024 & CM APPL 5377/2024
SATYA PAL ARYAPetitioner

Through: Mr.Raghvendra Singh,
Mr.Abhishek Gupta,
Mr.Gyanendra Rathour and
Mr.Vaibhav Kumar, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 31, DELHI.....Respondent

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1390/2024 & CM APPL 5747/2024
SUNOJ ENGINEERS PVT.LTDPetitioner
Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus
ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANRRespondents
Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1393/2024 & CM APPL 5753/2024
SUNOJ ENGINEERS PVT.LTD.....Petitioner
Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus
ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANRRespondents
Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1404/2024 & CM APPL 5764/2024
SUNOJ ENGINEERS PVT.LTD.....Petitioner
Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,

Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANRRespondents

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1405/2024 & CM APPL 5766/2024

SUNOJ ENGINEERS PVT.LTD.....Petitioner

Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANRRespondents

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1406/2024 & CM APPL 5768/2024

SUNOJ ENGINEERS PVT. LTDPetitioner

Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,

CENTRAL CIRCLE 27, DELHI AND ANR & ANR.

..... Respondents

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1407/2024 & CM APPL 5770/2024

SUNOJ ENGINEERS PVT.LTDPetitioner

Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANR Respondents

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1408/2024 & CM APPL 5772/2024

SUNOJ ENGINEERS PVT.LTD.....Petitioner

Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 27, DELHI & ANR Respondents

Through: Mr.Gaurav Gupta, Sr.SC with
Mr.Shivendra Singh, Jr.SC and
Mr.Puneet Singhal, Jr.SC.

+ W.P.(C) 1460/2024 & CM APPL 6034/2024

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Signing Date: 09.04.2024
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WP(C) 1459/2024 & connected matters

Page 20 of 89

SAKSHAM COMMODITIES LIMITEDPetitioner

Through: Mr.Salil Kapoor, Mr.Sumit Lalchandani, Ms.Ananya Kapoor, Ms.Tarun Chanana, Mr.Shivam Yadav, Mr.Vibhu Jain, Mr.Utkarsa Gupta, Mr.Amandeep Mehta and Mr.Sanat Kapoor, Advs.

Versus

INCOME TAX OFFICER, WARD 22(1), DELHI & ANR.

..... Respondents

Through: Mr.Sunil Agarwal, Sr.SC with Mr.Shivansh B.Pandya, Jr.SC and Mr.Utkarsh Tiwari, Adv for I.T.Dept.

+ W.P.(C) 1468/2024 & CM APPL 6046/2024

SAKSHAM COMMODITIES LIMITEDPetitioner

Through: Mr.Salil Kapoor, Mr.Sumit Lalchandani, Ms.Ananya Kapoor, Ms.Tarun Chanana, Mr.Shivam Yadav, Mr.Vibhu Jain, Mr.Utkarsa Gupta, Mr.Amandeep Mehta and Mr.Sanat Kapoor, Advs.

Versus

INCOME TAX OFFICER WARD 22(1), DELHI & ANR.

..... Respondents

Through: Mr.Sunil Agarwal, Sr.SC with Mr.Shivansh B.Pandya, Jr.SC and Mr.Utkarsh Tiwari, Adv for I.T.Dept.

+ W.P.(C) 1473/2024 & CM APPL 6101/2024

OPV PACKAGING PVT LTD.....Petitioner

Through: Mr.Rohit Jain and Mr.Saksham Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.

..... Respondents

Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1474/2024 & CM APPL 6103/2024

OPV PACKAGING PVT LTD.....Petitioner

Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.

..... Respondents

Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1478/2024 & CM APPL 6118/2024

SAKSHAM COMMODITIES LIMITEDPetitioner

Through: Mr.Salil Kapoor, Mr.Sumit
Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

INCOME TAX OFFICER, WARD 22(1), DELHI & ANR.

..... Respondents

Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1479/2024 & CM APPL 6120/2024

SAKSHAM COMMODITIES LIMITEDPetitioner

Through: Mr.Salil Kapoor, Mr.Sumit

Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

INCOME TAX OFFICER, WARD 22(1), DELHI & ANR.

..... Respondents

Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1485/2024 & CM APPL 6137/2024

OPV PACKAGING PVT LTD.....Petitioner

Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.

..... Respondents

Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1490/2024 & CM APPL 6146/2024

OPV PACKAGING PVT LTD.....Petitioner

Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.

..... Respondents

Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1491/2024 & CM APPL 6148/2024

OPV PACKAGING PVT LTD.....Petitioner
Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.
..... Respondents
Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1492/2024 & CM APPL 6150/2024
OPV PACKAGING PVT LTD.....Petitioner
Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.
..... Respondents
Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1493/2024 & CM APPL 6152/2024
OPV PACKAGING PVT LTD.....Petitioner
Through: Mr.Rohit Jain and Mr.Saksham
Singhal, Advs.

Versus

INCOME TAX OFFICER WARD 19(1) DELHI & ORS.
..... Respondents
Through: Mr.Puneet Rai, Sr.SC with
Mr.Ashivini Kumar and
Mr.Rishabh Nangia, Advs.

+ W.P.(C) 1495/2024 & CM APPL 6154/2024
SAKSHAM COMMODITIES LIMITEDPetitioner
Through: Mr.Salil Kapoor, Mr.Sumit

Lalchandani, Ms.Ananya
Kapoor, Ms.Tarun Chanana,
Mr.Shivam Yadav, Mr.Vibhu
Jain, Mr.Utkarsa Gupta,
Mr.Amandeep Mehta and
Mr.Sanat Kapoor, Advs.

Versus

INCOME TAX OFFICER, WARD 22(1), DELHI & ANR.

..... Respondents

Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1763/2024 & CM APPL 7368/2024

CHANDER PARKASH GUPTAPetitioner

Through: Mr. Ved Jain, Mr. Nischay
Kantoor, Ms. Soniya Dodeja
and Mr. Animesh Tripathi,
Advs.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE
43(1) DELHI & ORS Respondents

Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1764/2024 & CM APPL 7370/2024

NEELKANTH STEEL AND ALLOYSPetitioner

Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX,
CIRCLE 49(1), & ORS Respondents

Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1770/2024 & CM APPL 7395/2024
NEELKANTH STEEL AND ALLOYS.....Petitioner
Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX, CIRCLE 49(1)
& ORS.....Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1774/2024 & CM APPL 7405/2024
NEELKANTH STEEL AND ALLOYS.....Petitioner
Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX, CIRCLE 49(1)
& ORS.....Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1776/2024 & CM APPL 7409/2024
NEELKANTH STEEL AND ALLOYS.....Petitioner
Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX, CIRCLE 49(1)
& ORS.....Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1778/2024 & CM APPL 7417/2024
NEELKANTH STEEL AND ALLOYSPetitioner
Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX, CIRCLE 49(1)
& ORS Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1782/2024 & CM APPL 7425/2024
NEELKANTH STEEL AND ALLOYSPetitioner
Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX, CIRCLE
49(1) & ORS Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1783/2024 & CM APPL 7427/2024
NEELKANTH STEEL AND ALLOYSPetitioner
Through: Mr.Satyen Sethi and Mr.Arta
Trana Panda, Advs.

Versus

ASSTT. COMMISSIONER OF INCOME TAX, CIRCLE 49(1)
& ORS Respondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

+ W.P.(C) 1802/2024 & CM APPL 7524/2024
CHANDER PARKASH GUPTAPetitioner
Through: Mr. Ved Jain, Mr. Nischay
Kantoor, Ms. Soniya Dodeja
and Mr. Animesh Tripathi,
Adv.

Versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE
43(1) DELHI & ORSRespondents
Through: Mr.Sunil Agarwal, Sr.SC with
Mr.Shivansh B.Pandya, Jr.SC
and Mr.Utkarsh Tiwari, Adv for
I.T.Dept.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR

KAURAV

J U D G M E N T

YASHWANT VARMA, J.

S. No.	Particulars	Paragraph Nos.
A.	INTRODUCTION	1 - 3
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D.	STAND OF THE RESPONDENTS	33 - 36
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A. INTRODUCTION

1. This batch of writ petitions impugns notices issued under Section 153C of the **Income Tax Act, 1961**¹ with the petitioners-assesseees asserting that in the absence of any material pertaining to the **Assessment Years**² which are proposed to be reopened and assessed having been gathered during the course of a search, the assumption of jurisdiction is wholly illegal and unsustainable in law. The submission principally flows from the recordal of facts as appearing in each of the Satisfaction Notes drawn by the **Assessing Officer**³ of the non-searched person and the same carrying no reference specific to the AY in respect of which the impugned notices have come to be issued. In some of the writ petitions, the Satisfaction Notes as drawn by the AO of the non-searched person had neither been provided to the writ petitioners nor were they brought on the record by the respondents. However, submissions were addressed on the assertion as made in the writ petition with the position so set out not being disputed by the respondents. In those cases, we have consequently proceeded on the basis that the incriminating material did not pertain to the AY in respect of which reopening was impugned.

2. According to the writ petitioners, merely because incriminating material may have been found or discovered and which would pertain to a particular AY, the same would not constitute sufficient basis for initiation of assessment or reassessment proceedings in respect of the six AYs' preceding the year of search or the entire block comprised in

¹ Act

² AYs

³ AO

the “*relevant assessment year*” as defined by Explanation 1 to Section 153A of the Act.

3. The challenge is founded on the contention that in the case of completed assessments which may fall either within the ambit of six preceding AYs’ or proverbially within the scope of “*relevant assessment year*”, a reassessment can be initiated only in respect of those AYs’ corresponding to which material may have been discovered in the course of a search and basis which the AO of the “*other person*” would be of the opinion that the same is likely have a “*bearing on the determination of the total income*” of the non-searched entity. The additional submission was that the requirement of incriminating material existing and thus constituting the basis for invocation of Section 153C would be liable to be viewed on identical terms, even in those cases where assessments may come to abate. The petitioners have placed the following details in respect of each of the individual writ petitioners which form part of this batch in the form of a chart which is extracted hereinbelow:

Petitioner name	WP(C) No.	A.Y.	Date of Satisfaction note by Assessing Officer of the searched person	Date of Satisfaction note by Assessing Officer of the non-searched person	Date of Section 153C notice
Saksham Commodities Limited	1459/2024	2015-16	24.06.2022 (Annexure P - 6)	11.07.2022 (Annexure P - 13)	11.07.2022 (Annexure P - 3)
Saksham Commodities Limited	1478/2024	2016-17	24.06.2022 (Annexure P - 6)	11.07.2022 (Annexure P - 13)	11.07.2022 (Annexure P - 3)
Saksham Commodities Limited	1495/2024	2017-18	24.06.2022 (Annexure P - 6)	11.07.2022 (Annexure P - 13)	11.07.2022 (Annexure P - 3)
Saksham	1479/2024	2018-19	24.06.2022	11.07.2022	11.07.2022

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Signing Date: 09.04.2024
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Commodities Limited			(Annexure P - 6)	(Annexure P - 13)	(Annexure P - 3)
Saksham Commodities Limited	1460/2024	2019-20	24.06.2022 (Annexure P - 6)	11.07.2022 (Annexure P - 13)	11.07.2022 (Annexure P - 3)
Saksham Commodities Limited	1468/2024	2020-21	24.06.2022 (Annexure P - 6)	11.07.2022 (Annexure P - 13)	11.07.2022 (Annexure P - 3)
Susheel Jain	718/2024	2014-15	09.06.2022 (Annexure P-8)	No Satisfaction Note	16.08.2022 (Annexure P-2)
Susheel Jain	693/2024	2015-16	09.06.2022 (Annexure P-9)	No Satisfaction Note	16.08.2022 (Annexure P-3)
Susheel Jain	695/2024	2017-18	09.06.2022 (Annexure P-8)	No Satisfaction Note	16.08.2022 (Annexure P-2)
Susheel Jain	696/2024	2018-19	09.06.2022 (Annexure P-8)	No Satisfaction Note	16.08.2022 (Annexure P-2)
Susheel Jain	698/2024	2019-20	09.06.2022 (Annexure P-8)	No Satisfaction Note	16.08.2022 (Annexure P-2)
Susheel Jain	706/2024	2020-21	09.06.2022 (Annexure P-8)	No Satisfaction Note	16.08.2022 (Annexure P-2)
Naresh Mittal	1112/2024	2019-20	24.06.2022 (Annexure P-9)	08.08.2022 (Annexure P-5)	22.08.2022 (Annexure P-2)
Naresh Mittal	1117/2024	2017-18	24.06.2022 (Annexure P-9)	08.08.2022 (Annexure P-5)	22.08.2022 (Annexure P-2)
Naresh Mittal	1119/2024	2018-19	24.06.2022 (Annexure P-9)	08.08.2022 (Annexure P-5)	22.08.2022 (Annexure P-2)
Naresh Mittal	1120/2024	2020-21	24.06.2022 (Annexure P-9)	08.08.2022 (Annexure P-5)	22.08.2022 (Annexure P-2)
Chander Parkash Gupta	1763/2024	2020-21	24.06.2022 (Annexure P-8)	15.09.2022 (Annexure P-12)	29.07.2022 (Annexure P-2)
Chander Parkash Gupta	1802/2024	2019-20	24.06.2022 (Annexure P-8)	15.09.2022 (Annexure P-12)	29.07.2022 (Annexure P-2)
Sunoj Engineers Pvt. Ltd.	1390/2024	2015-16	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)

Sunoj Engineers Pvt. Ltd.	1393/2024	2014-15	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)
Sunoj Engineers Pvt. Ltd.	1404/2024	2019-20	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)
Sunoj Engineers Pvt. Ltd.	1405/2024	2018-19	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)
Sunoj Engineers Pvt. Ltd.	1406/2024	2017-18	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)
Sunoj Engineers Pvt. Ltd.	1407/2024	2016-17	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)
Sunoj Engineers Pvt. Ltd.	1408/2024	2020-21	24.06.2022 (Annexure P-6)	08.08.2022 (Annexure P-9)	24.08.2022 (Annexure P-3)
Ashish Agrawal	1089/2024	2014-15	26.05.2022 (Annexure P-4)	24.06.2022	29.06.2024 (Annexure P-3)
Ashish Agrawal	1096/2024	2015-16	26.05.2022 (Annexure P-4)	24.06.2022	29.06.2024 (Annexure P-3)
Ashish Agrawal	1094/2024	2016-17	26.05.2022 (Annexure P-5)	24.06.2022	29.06.2024 (Annexure P-4)
Ashish Agrawal	1092/2024	2017-18	26.05.2022 (Annexure P-5)	24.06.2022	29.06.2024 (Annexure P-4)
Ashish Agrawal	1093/2024	2018-19	26.05.2022 (Annexure P-5)	24.06.2022	29.06.2024 (Annexure P-4)
Ashish Agrawal	1095/2024	2020-21	26.05.2022 (Annexure P-5)	24.06.2022	29.06.2024 (Annexure P-4)
Neelkanth Steel and Alloys	1764/2024	2014-15	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)
Neelkanth Steel and Alloys	1770/2024	2017-18	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)
Neelkanth Steel and Alloys	1776/2024	2016-17	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)
Neelkanth Steel and Alloys	1774/2024	2018-19	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)

				P-2)	1)
Neelkanth Steel and Alloys	1778/2024	2020-21	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)
Neelkanth Steel and Alloys	1782/2024	2019-20	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)
Neelkanth Steel and Alloys	1783/2024	2015-16	--	22.06.2022 (Annexure P-2)	14.06.2023 (Annexure P-1)
Modicare Ltd	3007/2023	2013-14	20.10.2022 (Annexure L)	20.10.2022 (Annexure L)	21.10.2022 (Annexure A)
Modicare Ltd	3019/2023	2014-15	20.10.2022 (Annexure L)	20.10.2022 (Annexure L)	21.10.2022 (Annexure A)
Modicare Ltd	3681/2023	2015-16	22.03.2022 (Annexure G)	24.03.2022 (Annexure G)	25.04.2022 (Annexure A)
OPV Packaging Pvt Ltd	1493/2024	2014-15	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
OPV Packaging Pvt Ltd	1474/2024	2015-16	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
OPV Packaging Pvt Ltd	1492/2024	2016-17	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
OPV Packaging Pvt Ltd	1473/2024	2017-18	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
OPV Packaging Pvt Ltd	1490/2024	2018-19	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
OPV Packaging Pvt Ltd	1491/2024	2019-20	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
OPV Packaging Pvt Ltd	1485/2024	2020-21	05.04.2022 (Annexure F)	23.06.2022 (Annexure F)	23.06.2022 (Annexure A)
Satya Pal Arya	1287/2024	2018-19	24.06.2022 (Annexure II)	20.07.2022 (Annexure II)	22.07.2022 (Annexure I)
Satya Pal Arya	1290/2024	2017-18	24.06.2022 (Annexure II)	20.07.2022 (Annexure II)	22.07.2022 (Annexure I)
Satya Pal Arya	1311/2024	2014-15	24.06.2022	20.07.2022	22.07.2022

			(Annexure II)	(Annexure II)	(Annexure I)
Satya Pal Arya	1313/2024	2019-20	24.06.2022 (Annexure II)	20.07.2022 (Annexure II)	22.07.2022 (Annexure I)
Satya Pal Arya	1317/2024	2020-21	24.06.2022 (Annexure II)	20.07.2022 (Annexure II)	22.07.2022 (Annexure I)
Satya Pal Arya	1321/2024	2015-16	24.06.2022 (Annexure II)	20.07.2022 (Annexure II)	22.07.2022 (Annexure I)
Forever Bodycare Industries	1080/2024	2019-20	24.06.2022 (Annexure III)	04.11.2022 (Annexure III)	15.11.2022 (Annexure II)
Forever Bodycare Industries	1081/2024	2014-15	24.06.2022 (Annexure III)	04.11.2022 (Annexure III)	15.11.2022 (Annexure II)
Forever Bodycare Industries	1082/2024	2020-21	24.06.2022 (Annexure III)	04.11.2022 (Annexure III)	15.11.2022 (Annexure II)
Forever Bodycare Industries	1083/2024	2017-18	24.06.2022 (Annexure III)	04.11.2022 (Annexure III)	15.11.2022 (Annexure II)
Forever Bodycare Industries	1084/2024	2018-19	24.06.2022 (Annexure III)	04.11.2022 (Annexure III)	15.11.2022 (Annexure II)
Mamta Agarwal	872/2024	2013-14	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta Agarwal	853/2024	2014-15	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta Agarwal	871/2024	2015-16	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta Agarwal	852/2024	2016-17	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta Agarwal	792/2024	2017-18	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta Agarwal	874/2024	2018-19	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta Agarwal	870/2024	2019-20	24.06.2022	Undated	18.08.2022

			(Annexure A-7)	(Annexure A-10)	(Annexure A-2)
Mamta Agarwal	854/2024	2020-21	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Ashutosh Agarwal	994/2024	2013-14	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Ashutosh Agarwal	992/2024	2017-18	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Ashutosh Agarwal	993/2024	2018-19	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Ashutosh Agarwal	1005/2024	2019-20	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Ashutosh Agarwal	1008/2024	2020-21	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Vikas Wahi	726/2024	2016-17	24.06.2022 (Annexure A-6)	Undated (Annexure A-6)	10.11.2022 (Annexure A-2)
Vikas Wahi	723/2024	2017-18	24.06.2022 (Annexure A-6)	Undated (Annexure A-6)	10.11.2022 (Annexure A-2)
Vikas Wahi	722/2024	2018-19	24.06.2022 (Annexure A-6)	Undated (Annexure A-6)	10.11.2022 (Annexure A-2)
Vikas Wahi	721/2024	2019-20	24.06.2022 (Annexure A-6)	Undated (Annexure A-6)	10.11.2022 (Annexure A-2)
Vikas Wahi	719/2024	2020-21	24.06.2022 (Annexure A-6)	Undated (Annexure A-6)	10.11.2022 (Annexure A-2)

B. BROAD FACTUAL MATRIX

4. Since the challenge raised is common, we deem it apposite to notice the facts as they obtain in the lead writ petition of **Saksham**

Commodities Limited v. ITO, Ward 22(1), Delhi & Anr⁴. The impugned Section 153C notice dated 11 July 2022 pertains to AY2015-16. It is the case of the writ petitioner that for the aforesaid AY, it had filed its **Return of Income⁵** under Section 139(1) of the Act on 24 September 2015. On 18 October 2019, a search and seizure operation was carried out in the case of the **Alankit Group of companies⁶**. Following the aforesaid, the Section 153C notice dated 11 July 2022 came to be issued by the respondents requiring the petitioner to submit its ROI for AY 2015-16. The issuance of the notice was preceded by the drawl of a Satisfaction Note by the jurisdictional AO, and since the same would have a material bearing on the question which stands raised, the same is reproduced hereinbelow:

“Sanction note for initiating proceedings u/s 153C of the Income Tax Act 1961 in the case of Saksham Commodity Private Limited (PAN: AABCM533G)

A letter dated 24.06.2022 from DCIT, Central Circle-28, Delhi issued vide F.No. DCIT/CC-28/Misc/2022-23/956 has been received in this office. Through the above letter, the following have been informed:

1. A search and seizure operation was carried out in the Alankit Group of cases on 18.10.2019 subsequently the said group was centralized to the jurisdiction of the undersigned. Accordingly, during the course of assessment proceedings u/s 153A of Alankit Group, material/documents related to case of Saksham Commodity Private Limited have been found.

2. Ledgers of have been obtained from laptop of Sh. Sunil Kumar Gupta found and seized from the residence of Sh. Sunil Kumar Gupta, at 3584/4, Narang Colony, Gali No. Tri Nagar Delhi (Path: A-321 SUNIL KUMARGUPTAHPLAPTOPIEXTRA CTED DATA\Tally[root].1\LocalDisk ANARKALI/BAC KUPIDATA 241DATA24).

⁴ WP(C) No. 1459/2024

⁵ ROI

⁶ Alankit

3. The transactions entered into by various beneficiaries, against unaccounted cash or otherwise to take accommodation entries, are as tabulated below:

Name of Beneficiary	F.Y.	Particulars of transaction as per ledger	Sum of Amount Debit in Ledger	Sum of Amount Credit in Ledger
SAKSHAM COMMODITY PRIVATE LIMITED	2009-10	VIJAY BANK- AFL 242	1,50,000	43,00,000
		VIJAY BANK- AIL	35,00,000	32,00,000
	2010-11	VIJAY BANK- AFL	22,50,000	
	2011-12	Cash		16,00,000
		VIJAY BANK _ AFL	16,00,000	

4. The assessment proceedings are required to be taken u/s 153C of the Income Tax Act, 1961 as the warrant issued in the name of Sh. Alok Kumar Aggarwal, Sh. Ankit Aggarwal, M/s Alankit Ltd. and M/s Alankit Assignment.

A.Y. Invoiced: A.Y. 2010-11 to A.Y. 2020-21.”

5. As is manifest from a perusal of the aforementioned Satisfaction Note, the respondents refer to incriminating material found in the course of the search and pertaining to **Financial Years**⁷ 2009-10, 2010-11 and 2011-12. Since the corresponding AYs’ for the aforementioned period would be AYs’ 2010-11, 2011-12 and 2012-13, the petitioner asserts that the invocation of Section 153C for AY 2015-16 is wholly arbitrary and legally unsustainable.

6. When the writ petition was initially entertained on 01 February 2024, we had taken note of the challenge which stood raised and the

⁷ FYs

pendency of identical questions in WP(C) 540/2024 and WP(C) 719/2024, which are also part of the present batch of writ petitions. Upon consideration of the interim orders that had been passed by us on the aforementioned petitions, we had provided that while it would be open for the respondents to proceed further in terms of the impugned notice, any orders adverse to the writ petitioner, if passed, would not be given effect to till the next date of listing. It is this interim order which has operated on the writ petition as well as others forming part of this batch.

C. SUBMISSIONS ADVANCED BY THE PETITIONERS

7. Submissions on behalf of the writ petitioners were advanced by Mr. Salil Kapoor, Dr. Rakesh Gupta, Mr. Ved Jain and Mr. Rohit Jain, learned counsels. The petitioners principally contended that the power to assess or to reassess conferred by virtue of Section 153C of the Act is premised on the AO of the non-searched entity being satisfied on a perusal of the material handed over to it that the same would “*have a bearing on the determination of the total income*” of the “*other person*” for six AYs’ immediately preceding the AY relevant to the FY in which the search was undertaken or documents requisitioned, as well as for the “*relevant assessment year*” as defined in Section 153A of the Act. According to learned counsels, the existence of material which is likely to impact the total income, as determined or assessed for any AY, is a *sine qua non* for sustaining the initiation of action under Section 153C. It was submitted that the reopening of all AYs’, which may form part of the block of six or ten AYs’ would not be justified merely on the ground of incriminating material having been discovered pertaining to a particular AY.

8. As was noticed by us while recording the facts pertaining to the lead writ petition, the Satisfaction Note had alluded to incriminating material pertaining to AYs' 2010-11, 2011-12 and 2012-13 having been gathered in the course of the search. The Section 153C notice however which came to be issued and stands impugned pertains to AY 2015-16. It was in the aforesaid backdrop that the writ petitioner had asserted that sans any material gathered in the course of the search, and which could be said to pertain to AY 2015-16 and consequently "*have a bearing on the determination of the total income*" for that year, the invocation of Section 153C would not sustain. The criticality of incriminating material and its correlation to the AY which is sought to be reassessed, according to the writ petitioners, is an aspect which stands conclusively answered by the Supreme Court in **Commissioner of Income Tax v. Sinhgad Technical Education Society**⁸.

9. In *Sinhgad Technical Education Society*, Section 153C notices had been issued against the assessee for AYs' 2000-01 to 2005-06. The appeal before the Supreme Court, however, stood restricted to AYs' 2001 to 2003-04. Taking note of the view which weighed with the ITAT, the Supreme Court observed as under:-

"15. In these appeals, qua the aforesaid four assessment years, the assessment is quashed by the ITAT (which order is upheld by the High Court) on the sole ground that notice under Section 153-C of the Act was legally unsustainable. The events recorded above further disclose that the issue pertaining to validity of notice under Section 153-C of the Act was raised for the first time before the Tribunal and the Tribunal permitted the assessee to raise this additional ground and while dealing with the same on merits, accepted the contention of the assessee.

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⁸ (2018) 11 SCC 490

17. The ITAT permitted this additional ground by giving a reason that it was a jurisdictional issue taken up on the basis of facts already on the record and, therefore, could be raised. In this behalf, it was noted by the ITAT that as per the provisions of Section 153-C of the Act, incriminating material which was seized had to pertain to the assessment years in question and it is an undisputed fact that the documents which were seized did not establish any co-relation, document-wise, with these four assessment years. Since this requirement under Section 153-C of the Act is essential for assessment under that provision, it becomes a jurisdictional fact. We find this reasoning to be logical and valid, having regard to the provisions of Section 153-C of the Act. Para 9 of the order of the ITAT reveals that ITAT had scanned through the Satisfaction Note and the material which was disclosed therein was culled out and it showed that the same belongs to Assessment Year 2004-05 or thereafter. After taking note of the material in para 9 of the order, the position that emerges therefrom is discussed in para 10. It was specifically recorded that the counsel for the Department could not point out to the contrary. It is for this reason the High Court has also given its imprimatur to the aforesaid approach of the Tribunal. That apart, the learned Senior Counsel appearing for the respondent, argued that notice in respect of Assessment Years 2000-01 and 2001-02 was even time-barred.

18. We, thus, find that the ITAT rightly permitted this additional ground to be raised and correctly dealt with the same ground on merits as well. Order of the High Court affirming this view of the Tribunal is, therefore, without any blemish. Before us, it was argued by the respondent that notice in respect of Assessment Years 2000-01 and 2001-02 was time-barred. However, in view of our aforementioned findings, it is not necessary to enter into this controversy.

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20. Likewise, the Delhi High Court also decided the case on altogether different facts which will have no bearing once the matter is examined in the aforesaid hue on the facts of this case. The Bombay High Court has rightly distinguished the said judgment as not applicable giving the following reasons: (*Sinhgad case* [*CIT v. Sinhgad Technical Education Society*, 2015 SCC OnLine Bom 3922 : (2015) 378 ITR 84] , SCC OnLine Bom para 8)

“8. Reliance on the judgment of the Division Bench of the High Court of Delhi reported in *SSP Aviation Ltd. v. CIT* [*SSP Aviation Ltd. v. CIT*, 2012 SCC OnLine

Del 1898 : (2012) 346 ITR 177] is misplaced. There, search was carried out in the case of “P” group of companies. It was found that the assessee before the Hon'ble Delhi High Court had acquired certain development rights from “P” group of companies. Based thereon, the satisfaction was recorded by the assessing officer and he issued notice in terms of Section 153-C. Thereupon the proceedings were initiated under Section 153-A and the assessee was directed to file returns for the six assessment years commencing from 2003-04 onwards. The assessee filed returns for those years but disclosed Nil taxable income. These returns were accepted by the assessing officer, however, in respect of Assessment Year 2007-08 there was a significant difference in the pattern of assessment for this year also, the return was filed for Nil income but there were certain documents and which showed that there were transactions of sale of development rights and from which profits were generated and taxable for Assessment Year 2007-08. Thus, the receipt of Rs 44 crores as deposit in the previous year relevant to Assessment Year 2008-09 and later on became subject-matter of the writ petition before the Delhi High Court. That was challenging the validity of notice under Section 153-C read with Section 153-A. In dealing with such situation and the peculiar facts that the Delhi High Court upheld the satisfaction and the Delhi High Court found that the machinery provided under Section 153-C read with Section 153-A equally facilitates inquiry regarding existence of undisclosed income in the hands of a person other than searched person. The provisions have been referred to in details in dealing with a challenge to the legality and validity of the seizure and action founded thereon. We do not find anything in this judgment which would enable us to hold that the tribunal's understanding of the said legal provision suffers from any error apparent on the face of the record. The Delhi High Court judgment, therefore, will not carry the case of the revenue any further.”

We, thus, do not find any merit in these appeals.”

10. *Sinhgad Technical Education Society* assumes significance in light of the ITAT having taken note of the fact that the material

gathered in the course of the search pertained only to AY 2004-05 or thereafter. It was in the aforesaid backdrop that it took the view that the Section 153C action would not sustain in respect of the four AYs' since the seized documents had no bearing on those years.

11. The petitioners also placed reliance upon various decisions rendered by our Court and which had laid emphasis on the material gathered in the course of the search impacting the computation of income for each particular AY as being determinative of the question which stands posited. The first decision which was cited in this context was that of **CIT (Central)- III v. Kabul Chawla**⁹ and where the legal position came to be summarized in the following terms:-

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

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

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

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

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

⁹ 2015 SCC Online Del 11555

the Assessing Officer which can be related to the evidence found, it does not mean that the assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously, an assessment has to be made under this section only on the basis of the seized material."

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

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

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

12. The petitioners contended that although *Kabul Chawla* was a decision rendered in the context of Section 153A, the judgment is instructive to the extent that it had held that Section 153A would warrant additions being made only on the basis of evidence found in the course of a search and those assessments not being liable to be arbitrarily reopened or examined afresh unless the seized material be found to have some nexus with the assessment of total income for that year. The Court in *Kabul Chawla* further held that completed assessments could be interfered with only on the basis of incriminating material unearthed during the course of search.

13. The issue came to be examined in greater detail in **CIT V. RRJ**

Securities Ltd¹⁰. Dealing with the imperatives of a correlation between the material discovered in the course of a search and the power to assess or reopen concluded assessments, in *RRJ Securities*, the Court held:-

“33. The record slip belongs to the assessee and, therefore, the action of the Assessing Officer of the searched persons recording that the same belongs to the assessee cannot be faulted. However, the question then arises is whether the Assessing Officer of the assessee was justified in taking further steps for reassessing the income of the assessee in respect of the assessment years for which the assessments were concluded and in respect of which the seized document had no bearing. In our view, the same would be clearly impermissible as the seized material now available with the Assessing Officer, admittedly, had no nexus with those assessments and was wholly irrelevant for the purpose of assessing the income of the assessee for the years in question. Merely because a valuable article or document belonging to an assessee is seized from the possession of a person searched under section 132 of the Act does not mean that the concluded assessments of the assessee are necessarily to be reopened under section 153C of the Act. In our view, the concluded assessments cannot be interfered with mechanically and solely for the reason that a document belonging to the assessee, which has no bearing on the assessments of the assessee for the years preceding the search, was seized from the possession of the searched persons.

34. In SSP Aviation (supra), this court had noted the difference between the provisions of section 158BD of the Act and the provisions of section 153C. Whereas section 158BD referred to the satisfaction of an Assessing Officer with regard to any "undisclosed income" belonging to a person other than the searched person, section 153C(1) of the Act in contrast referred merely to the Assessing Officer being satisfied that assets/documents seized during a search belonged to a person other than one searched. It is, thus, clear that it was not necessary for the Assessing Officer, at the stage of recording the satisfaction under section 153C to come to a conclusion that the seized assets which belong to another person represent any undisclosed income. If the Assessing Officer of a searched person is satisfied that an asset/documents seized belong to another person, he has a duty to forward the documents or the valuable assets seized to the

¹⁰ 2015 SCC Online Del 13085

Assessing Officer of the person concerned ; apart from doing so, the Assessing Officer can do nothing more.

35. The Assessing Officer of the person other than the one searched also, is not, at the stage of issuing notice under section 153C/153A of the Act, required to conclude that the assets/documents handed over to him by the Assessing Officer of the searched person represent or indicate any undisclosed income of the assessee under his jurisdiction. As explained in SSP Aviation (supra), section 153C only enables the Assessing Officer of a person other than the one searched, to investigate into the documents seized and/or the assets seized and ascertain that the same do not reflect any undisclosed income of the assessee (i.e., a person other than the one searched) for the relevant assessment years. If the seized money, bullion, jewellery or other valuable article or thing seized as handed over to the Assessing Officer of the assessee, are duly disclosed and reflected in the returns filed by the assessee, no further interference would be called for. Similarly, if the books of account/documents seized do not reflect any undisclosed income, the assessments already made cannot be interfered with. Merely because valuable articles and/or documents belonging to the assessee have been seized and handed over to the Assessing Officer of the assessee would not necessarily require the Assessing Officer to reopen the concluded assessments and reassess the income of the assessee.

36. The decision in SSP Aviation (supra) cannot be understood to mean that the Assessing Officer has the jurisdiction to make a reassessment in every case, where seized assets or documents are handed over to the Assessing Officer. The question whether the documents/assets seized could possibly reflect any undisclosed income has to be considered by the Assessing Officer after examining the seized assets/documents handed over to him. It is only in cases where the seized documents/assets could possibly reflect any undisclosed income of the assessee for the relevant assessment years, that further enquiry would be warranted in respect of those years. Whilst, it is not necessary for the Assessing Officer to be satisfied that the assets/documents seized during search of another person reflect undisclosed income of an assessee before commencing an enquiry under section 153C of the Act, it would be impermissible for him to commence such enquiry if it is apparent that the documents/assets in question have no bearing on the income of the assessee for the relevant assessment years.”

14. Yet another judgment which merits notice is that of **Principal**

Commissioner of Income Tax – 9 vs. Ram Avtar Verma¹¹, where the following pertinent observations were made:-

“3. CIT(A), after considering the record, was of the opinion that the additions could not be justified, and accordingly granted relief,, holding that no incriminating material was recovered during the search. The Revenue’s appeal was rejected. The ITAT held as follows:

“10. As per the paper book filed by the Id AR showing the Panchnama from where LD DR could not point out any material found during the course of search which could give even remote possibilities of altering the income of the assessee based on any incriminating documents. Admittedly both the assessment years in these appeals are completed assessments in case of the assessee. The reliance placed upon by the Id AR on the decision of the Hon'ble Delhi High Court in the case of Kabul Chawla Vs.CIT (Supra) where original assessment have been made u/s 143(1) of the Act is apt and squarely covers issue in favour of the assessee. The Hon'ble High Court in para No. 37 of that decision has held that no addition can be made in the hands of the assessee in absence of any incriminating material unearth during the course of search or requisition of documents. On reading of the order of the AO we could not found that there is any incriminating material referred by the AO which is found during the course of search for making these additions. Therefore respectfully following the decision of the Hon'ble.Delhi High Court in the case of Kabul Chawla Vs. CIT (supra) we confirm the order of the learned Commissioner of Income-tax (Appeals) and dismiss the appeal of the revenue.”

4. The Revenue urges that the non-obstante clause in Section 153A together with Section 158BD removes the barrier vis-a-vis restriction upon search assessments being confined to “undisclosed income”. In other words, it is stated that none of the provisions confine the enquiry of the AO to evaluating incriminating materials. This aspect, in the opinion of the Court, was extensively dealt with in Kabul Chawla v. CIT 380 ITR 173 which has, by now, been followed consistently in several appeals. The non-obstante clause, in the opinion of the Court, was necessary, given that there is a departure from the pre-existing provisions, which applied for the previous years and had a

¹¹ Order dated 07.02.2017 in ITA 61-62/2017

different structure where two sets of assessment orders were made by the AO during block periods. With the unification of assessment years for the block period, i.e. only one assessment order for each year in the block period, it was necessary for an overriding provision of the kind actually adopted in Section 153A. But for such a non-obstante clause, the Revenue could possibly have faced hurdles in regard to unadopted/current assessment years as well as reassessment proceedings pending at the time of the search in respect of which proceedings were to be completed under Sections 153A/153C. Having regard to the above directions, we are of the opinion that the ITAT decision does not call for interference. Both the appeals are accordingly dismissed.”

15. Thereafter, this Court following its decision and while dealing with an identical question in **ARN Infrastructure India Ltd. v. ACIT, Central Circle -28, New Delhi**¹² held:

“17. As regards the other document seized, and mentioned in the satisfaction note, viz., the extract of the ledger account maintained by the petitioner concerning the payments of commission made by it to RGEPL, even if it is held to "belong" to the petitioner, it could hardly be said to be an "incriminating" document. This was a document relevant only for the assessment year 2010-11. It could not have been used for reopening the assessments of the earlier years, i.e., the assessment years 2007-08 to the assessment years 2009-10, 2011-12 and 2012-13. This position again stands settled by the decision in CIT v. RRJ Securities Ltd. (supra). The fact that the Revenue's special leave petition against the said decision is pending in the Supreme Court does not make a difference since the operation of the said decision has not been stayed.

18. While the ledger account extract may be relevant for the assessment year 2010-11, it cannot be said to be incriminating material warranting reopening of the assessment. The return originally filed by the petitioner for the said assessment year 2010-11 was picked up for scrutiny and finalised by an assessment order under section 143(3) of the Act. The payments of commission to RGEPL to the tune of Rs. 4.95 crores as reflected in the ledger account was already disclosed in the petitioner's accounts which were examined while finalising the regular assessment. Therefore, the ledger account could not have led the Assessing Officer to be satisfied that any income had escaped assessment for the assessment year 2010-11.

¹² 2017 SCC Online Del 8081

19. The net result is that neither of the documents mentioned in the satisfaction note could have formed a valid basis for the Assessing Officer to initiate proceedings against the petitioner under section 153C of the Act for the assessment year 2010-11 or any of the other years as proposed.”

16. An identical question came up for consideration before this Court in **Principal Commissioner of Income Tax – 2 (Central) v. Index Securities Private Limited**¹³. Taking note of the judgment rendered by the Supreme Court in *Sinhgad Technical Education Society*, the Division Bench in *Index Securities* observed as under:-

“27. The recent decision of the Supreme Court in *Commissioner of Income Tax-III, Pune v. Sinhgad Technical Education Society* (Supra) is a complete answer to both points urged by the Revenue. The said decision, therefore, requires to be discussed in some detail.

28. The Supreme Court noted that the Assessee had raised a challenge to the validity of the assumption of jurisdiction by the AO under Section 153C of the Act for the first time before the ITAT. It was urged on behalf of the Revenue that the ITAT erred in allowing the said challenge by the Assessee by way of additional grounds. A reference was made by the Revenue to the decision of this Court in *SSP Aviation Limited v. Deputy Commissioner of Income Tax* [2012] 346 ITR 177 (Del) and that of the Gujarat High Court in *Kamleshbhai Dharamshibhai Patel v. Commissioner of Income Tax-III* (2013) 263 CTR (Guj) 362 which according to the Revenue held to the contrary.

29. The Supreme Court noted that the appeals relating to four of the AYs i.e. 2000-01 to 2003-04 were covered by the notice under Section 153C of the Act. In dealing with the question as to whether the ITAT was right in permitting the Assessee to raise this additional ground for the first time before it, the Supreme Court in paras 18 and 19 observed as under:

“18. The ITAT permitted this additional ground by giving a reason that it was a jurisdictional issue taken up on the basis of facts already on the record and, therefore, could be raised. In this behalf, **it was noted by the ITAT that**

¹³ 2017 SCC Online Del 10310

as per the provisions of Section 153C of the Act, incriminating material which was seized had to pertain to the Assessment Years in question and it is an undisputed fact that the documents which were seized did not establish any co-relation, document-wise, with these four Assessment Years. Since this requirement under Section 153C of the Act is essential for assessment under that provision, it becomes a jurisdictional fact. We find this reasoning to be logical and valid, having regard to the provisions of Section 153C of the Act. Para 9 of the order of the ITAT reveals that the ITAT had scanned through the satisfaction note and the material which was disclosed therein was culled out and it showed that the same belongs to Assessment Year 2004-05 or thereafter. After taking note of the material in para 9 of the order, the position that emerges therefrom is discussed in para 10. It was specifically recorded that the counsel for the Department could not point out to the contrary. It is for this reason the High Court has also give its imprimatur to the aforesaid approach of the Tribunal. That apart, learned senior counsel appearing for the Respondent, argued that notice in respect of assessment years 2000-01 and 2001-02 was even time barred.

19. We, thus, find that **the ITAT rightly permitted this additional ground to be raised and correctly dealt with the same ground on merits as well. Order of the High Court affirming this view of the Tribunal is, therefore, without any blemish.** Before us, it was argued by the Respondent that notice in respect of the Assessment Years 2000-01 and 2001-02 was time barred. However, in view of our aforementioned findings, it is not necessary to enter into this controversy.”

30. From a reading of the above two paragraphs, it is plain that the Supreme Court (i) agreed with the ITAT that the documents seized had to relate to the AYs whose assessments were reopened and that this was an essential jurisdictional fact and (ii) upheld the decision of the ITAT to permit the additional ground to be raised before it for the first time.

31. The Supreme Court also agreed with the decision of the Gujarat High Court in *Kamleshbhai Dharamshibhai Patel* (Supra) to the extent it held that “it is an essential condition precedent that any money, bullion or jewellery or other valuable articles or thing or books of accounts or documents seized or requisitioned should

belong to a person other than the person referred to in Section 153A of the Act.” The Supreme Court observed:“This proposition of law laid down by the High Court is correct, which is stated by the Bombay High Court in the impugned judgment as well.”

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35. As regards the second jurisdictional requirement viz., that the seized documents must be incriminating and must relate to the AYs whose assessments are sought to be reopened, the decision of the Supreme Court in Commissioner of Income Tax-III, Pune v. Sinhgad Technical Education Society (Supra) settles the issue and holds this to be an essential requirement. The decisions of this Court in CIT-7 v. RRJ Securities (2016) 380 ITR 612 (Del) and ARN Infrastructure India Limited v. ACIT [2017] 394 ITR 569 (Del) also hold that in order to justify the assumption of jurisdiction under Section 153C of the Act the documents seized must be incriminating and must relate to each of the AYs whose assessments are sought to be reopened. Since the satisfaction note forms the basis for initiating the proceedings under Section 153 C of the Act, it is futile for Mr. Manchanda to contend that this requirement need not be met for initiation of the proceedings but only during the subsequent assessment.”

17. The necessity of an indelible link being found to exist between the material recovered in the course of a search or a requisition made and a right to reassess under Sections 153A and 153C arose for the consideration of the Supreme Court in **Principal Commissioner of Income Tax, Central – 3 vs. Abhisar Buildwell Private Limited**¹⁴. In *Abhisar Buildwell*, the respondent-assessee appears to have specifically alluded to the incriminating material having no correlation with the AYs’ in respect of which notices had come to be issued. This clearly appears to have constituted the focal point of the said decision as would be evident from paragraph 23 of the report which is extracted hereinbelow:-

“23. The question which is posed for consideration in the present set of appeals is, as to whether in respect of completed assessments/unabated assessments, whether the jurisdiction of the

¹⁴ (2024) 2 SCC 433

AO to make assessment is confined to incriminating material found during the course of search under Section 132 or requisition under Section 132-A or not i.e. whether any addition can be made by the AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132-A of the 1961 Act or not.”

18. The Supreme Court while affirming the position in law as enunciated by this Court in *Kabul Chawla* and a judgment handed down by the Gujarat High Court in **Principal Commissioner of Income Tax v. Saumya Constructions Private Limited**¹⁵ held as follows:-

“28. For the reasons stated hereinbelow, we are in complete agreement with the view taken by the Delhi High Court in *Kabul Chawla* [CIT v. *Kabul Chawla*, 2015 SCC OnLine Del 11555 : (2016) 380 ITR 573] and the Gujarat High Court in *Saumya Construction (P)* [CIT v. *Saumya Construction (P) Ltd.*, 2016 SCC OnLineGuj 9976 : (2016) 387 ITR 529], taking the view that no addition can be made in respect of completed assessment in absence of any incriminating material.

29. While considering the issue involved, one has to consider the object and purpose of insertion of Section 153-A in the 1961 Act and when there shall be a block assessment under Section 153-A of the 1961 Act.

30. That prior to insertion of Section 153-A in the statute, the relevant provision for block assessment was under Section 158-BA of the 1961 Act. The erstwhile scheme of block assessment under Section 158-BA envisaged assessment of “undisclosed income” for two reasons, firstly that there were two parallel assessments envisaged under the erstwhile regime i.e. : (i) block assessment under Section 158-BA to assess the “undisclosed income”, and (ii) regular assessment in accordance with the provisions of the Act to make assessment qua income other than undisclosed income. Secondly, that the “undisclosed income” was chargeable to tax at a special rate of 60% under Section 113 whereas income other than “undisclosed income” was required to be assessed under regular assessment procedure and was taxable at normal rate. Therefore, Section 153-A came to be inserted and brought on the statute. Under Section 153-A regime, the intention of the legislation was to do away with the scheme of two parallel assessments and tax the “undisclosed” income too at the normal

¹⁵ 2016 SCC Online Guj 9976

rate of tax as against any special rate. Thus, after introduction of Section 153-A and in case of search, there shall be block assessment for six years. Search assessments/Block assessments under Section 153-A are triggered by conducting of a valid search under Section 132 of the 1961 Act. The very purpose of search, which is a prerequisite/trigger for invoking the provisions of Sections 153-A/153-C is detection of undisclosed income by undertaking extraordinary power of search and seizure i.e. the income which cannot be detected in ordinary course of regular assessment. Thus, the foundation for making search assessments under Sections 153-A/153-C can be said to be the existence of incriminating material showing undisclosed income detected as a result of search.

31. On a plain reading of Section 153-A of the 1961 Act, it is evident that once search or requisition is made, a mandate is cast upon the AO to issue notice under Section 153 of the Act to the person, requiring him to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and assess or reassess the same.

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33. As per the provisions of Section 153-A, in case of a search under Section 132 or requisition under Section 132-A, the AO gets the jurisdiction to assess or reassess the “total income” in respect of each assessment year falling within six assessment years. However, it is required to be noted that as per the second proviso to Section 153-A, the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years pending on the date of initiation of the search under Section 132 or making of requisition under Section 132-A, as the case may be, shall abate. As per sub-section (2) of Section 153-A, if any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or Section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner. Therefore, the intention of the legislation seems to be that in case of search only the pending assessment/reassessment proceedings shall abate and the AO would assume the jurisdiction to assess or reassess the “total income” for the entire six years' period/block assessment period. The intention does not seem to be to reopen the

completed/unabated assessments, unless any incriminating material is found with respect to assessment year concerned falling within last six years preceding the search. Therefore, on true interpretation of Section 153-A of the 1961 Act, in case of a search under Section 132 or requisition under Section 132-A and during the search any incriminating material is found, even in case of unabated/completed assessment, the AO would have the jurisdiction to assess or reassess the "total income" taking into consideration the incriminating material collected during the search and other material which would include income declared in the returns, if any, furnished by the assessee as well as the undisclosed income. However, in case during the search no incriminating material is found, in case of completed/unabated assessment, the only remedy available to the Revenue would be to initiate the reassessment proceedings under Sections 147/48 of the Act, subject to fulfilment of the conditions mentioned in Sections 147/148, as in such a situation, the Revenue cannot be left with no remedy. Therefore, even in case of block assessment under Section 153-A and in case of unabated/completed assessment and in case no incriminating material is found during the search, the power of the Revenue to have the reassessment under Sections 147/148 of the Act has to be saved, otherwise the Revenue would be left without remedy.

34. If the submission on behalf of the Revenue that in case of search even where no incriminating material is found during the course of search, even in case of unabated/completed assessment, the AO can assess or reassess the income/total income taking into consideration the other material is accepted, in that case, there will be two assessment orders, which shall not be permissible under the law. At the cost of repetition, it is observed that the assessment under Section 153-A of the Act is linked with the search and requisition under Sections 132 and 132-A of the Act. The object of Section 153-A is to bring under tax the undisclosed income which is found during the course of search or pursuant to search or requisition. Therefore, only in a case where the undisclosed income is found on the basis of incriminating material, the AO would assume the jurisdiction to assess or reassess the total income for the entire six years block assessment period even in case of completed/unabated assessment. As per the second proviso to Section 153-A, only pending assessment/reassessment shall stand abated and the AO would assume the jurisdiction with respect to such abated assessments. It does not provide that all completed/unabated assessments shall abate. If the submission on behalf of the Revenue is accepted, in that case, the second proviso to Section 153-A and sub-section (2) of Section 153-A would be redundant and/or re-writing the said provisions, which is not permissible under the law.

35. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in *Kabul Chawla* [*CIT v. Kabul Chawla*, 2015 SCC OnLine Del 11555 : (2016) 380 ITR 573] and the Gujarat High Court in *Saumya Construction* [*CIT v. Saumya Construction (P) Ltd.*, 2016 SCC OnLineGuj 9976 : (2016) 387 ITR 529] and the decisions of the other High Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material.

36. In view of the above and for the reasons stated above, it is concluded as under:

36.1. That in case of search under Section 132 or requisition under Section 132-A, the AO assumes the jurisdiction for block assessment under Section 153-A;

36.2. All pending assessments/reassessments shall stand abated;

36.3. In case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the “total income” taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and

36.4. In case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132-A of the 1961 Act. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under Sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under Sections 147/148 of the Act and those powers are saved.”

The view as expressed in *Abhisar Buildwell* came to be thereafter reiterated and reaffirmed by the Supreme Court in **DCIT, Central Circle 20 v. M/s U.K Paints Overseas Ltd¹⁶**.

19. The petitioners, in this regard, also invited our attention to a

¹⁶ 2023 SCC Online SC 818

judgment rendered by a learned Judge of the Madras High Court in **Agni Vishnu Ventures Pct. Ltd &Ors v. DCIT, ADIT, Madras HC¹⁷**, and where the legal position was explained in the following terms:-

“63. Assessments made either under Section 153A or 153C can be sustained only if those assessments are based upon incriminating materials found in the course of search indicating concealed assets/taxable income that have escaped assessment. The scheme of assessment under Sections 153 A and 153C is available to the Department in addition to all other methods of assessment, revision and reassessment and each scheme has its distinct set of conditions and stipulations, that must be strictly adhered to.

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76. The ingredients of Section 153A are:

- i) Initiation of search or requisition under the applicable statutory provisions,
- ii) Such search/requisition being after 31.05.2023 but before 31.05.2021.
- iii) A mandate upon the Assessing Officer who 'shall' issue notice to the person searched.
- iv) The notice shall require him to furnish within such period as specified, return of income.
- v) Such returns are to be filed in respect of each assessment year falling within six assessment years referred to in that provision duly verified and containing the required particulars.
- vi) Upon receipt of the returns, reassess total income of 6 assessment years immediately preceding the assessment year relating to the previous year that search was conducted/requisition made.

77. The ingredients of Section 153 C are:

¹⁷ 2023 SCC Online Mad 8017

i) Satisfaction of the Assessing Officer who is Assessing Officer of the section 153A noticee that money/bullion/jewellery/other valuable article or thing/books of account or documents (incriminating materials) seized/requisitioned belongs to/pertain to or any information contained, relates to, a third party.

ii) Recording of satisfaction as above.

iii) Handing over of the incriminating material to the Assessing Officer having jurisdiction over the third party.

iv) Recording of satisfaction by the Assessing Officer of the third party that the incriminating material has a bearing on the determination of total income of the third party.

v) Upon condition of recording of the satisfaction of both officers as above, notices be issued to assess/reassess the income of the third party in accordance with the procedure stipulated under Section 153A.

78. In my considered view, there is a vital distinction between the object, intention as well as the express judge of Sections 153A and 153C. Section 153A addresses the searched entity and the procedure set evidently a notch higher for this reason. There is no discretion or condition precedent under Section 153A to the issuance of notice save the conduct of a search under Section 132 or making of a requisition under Section 132A. Upon the occurrence of one of the aforesaid events, it is incumbent upon the office to issue notice under Section 153A to the searched entity in line with the procedure stipulated.

79. Section 153C however requires the satisfaction of two conditions prior to issuance of notice:

i) Recording of satisfaction by the Assessing Officer of the searched entities that some of the incriminating materials relate to a third party.

ii) Recording of satisfaction by the Assessing Officer of the third party that the incriminating materials have a bearing on the determination of the total income of that third party.

80. Notice under Section 153C would have to be issued only upon confront satisfaction of both conditions as aforesaid. To this extent, there is, in my considered opinion, a clear and marked distinction between the provisions of Section 153A and 153C.

The contention of the revenue that a mandate is cast upon the Assessing Officer of the third party to issue notice under Section 153C for all the years comprising the block, mechanically and automatically, is thus rejected.

81. To clarify, it is only where the satisfaction note recorded by the receiving Assessing Officer, i.e., the Assessing Officer of the third party reflects a clear finding that the incriminating material received has a bearing on determination of total income of the third party for 6 assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made, that such notice would have to be issued for all the years.

82. It thus flows from the provision that the receiving assessing officer must apply his mind to the materials received and ascertain precisely the specific year to which the incriminating material relates. It is only when this determination/ascertainment is complete that the flood gates of an assessment would open qua those particular years. The issuance of a notice cannot be an automated function unconnected to this exercise of analysis and ascertainment by an assessing officer.

83. The construction of Section 153A and 153C is consciously different and is seen to apply different yardsticks to an entity searched and a third party, such yardstick being more exacting in the case of the former. The process of assessment is demanding and an assessee, once in receipt of a notice, is bound by the stringent procedure under the Act, till finalisation of the process.

84. In other words, a Damocles sword appears over the head of an assessee with the issuance of every notice which is laid to rest only upon conclusion of the proceedings; The sword cannot be invoked lightly and except if the statutory condition is satisfied. That is to state, an officer has to analyse and compartmentalise the incriminating material year wise, to arrive at a categoric determination as to the year to which the incriminating material relates and issue notices only for those years.

85. Needless to state these are some situations/issue when the spread of information and the nature of the issue itself might need more, and in-depth probing before such year-wise determination is possible. In such cases, the officer would be well within his right to state the nature of the issue and detail the difficulties that present themselves in precise bifurcation at that stage. This would

reflect application of mind and, in my considered view, would serve as sufficient compliance with the statutory condition.”

20. It was in the aforesaid backdrop that the petitioners contended that in the absence of any incriminating material having been unearthed in the search, it would be impermissible for the respondents to initiate action under Section 153C for the six AYs’ preceding the year of search or for that matter, the “*relevant assessment year*”.

21. It was then submitted that the material collated in the course of the search and the same likely to have a probable impact “*on the determination of the total income*” is a facet which must be evident and borne out from a reading of the Satisfaction Note itself. They would contend that unless the Satisfaction Note so drawn by the jurisdictional AO embody the formation of an opinion that the material gathered in the search is likely to impact the determination of income for a particular year, no notice under Section 153C can be validly issued. Learned counsels sought to lay emphasis on the decision of the Supreme Court in *Sinhgad Technical Education Society* having held that the formation of that opinion would constitute a jurisdictional fact.

22. The submission was that merely because Section 153C empowers or enables the respondents to reopen a block of ten AYs’, the same would not justify that recourse being adopted to in the absence of incriminating material that may “*have a bearing on the determination of the total income of such other person*”.

23. It was contended that the stand of the respondents that even if the material unearthed be available for one AY, the same would justify proceedings being commenced for the entire block of ten AYs’ is wholly untenable. This, according to learned counsels, would be clearly

contrary to the judgments rendered by the Supreme Court in *Sinhgad Technical Education Society* and *Abhisar Buildwell*. The petitioners also countered the stand of the respondents on the basis of the consistent view taken by our Court right from the time when judgment came to be rendered in *Kabul Chawla* and thereafter again in *RRJ Securities*, *ARN Infrastructure* and *Index Securities Private Limited*. The petitioners laid emphasis on the fact that the judgment of this Court in *Kabul Chawla* had come to be specifically affirmed by the Supreme Court itself in *Abhisar Buildwell*.

24. Proceeding then to deal with the issuance of notices under Section 153C in respect of abated assessments, the petitioners sought to draw a distinction between the position which obtains under Section 153A as opposed to that which flows from Section 153C. According to learned counsels, as per the provisions of Section 153A, in the case of a person who is searched, the AO is mandated to issue notice for six AYs'. They submitted that a bare reading of Section 153A would establish that the AO is conferred no discretion in the matter of issuance of notice and that consequently, the moment a person is searched, it would be bound to call upon such an assessee to furnish ROIs' for the six preceding AYs' as well as for the "relevant assessment year".

25. According to the petitioners, contrary to the above, in a case to which Section 153C applies, the jurisdictional AO must firstly and at the outset come to a prima facie conclusion that the material handed over and received by it is likely to implicate and "have a bearing on the determination of the total income". However, once the documents are handed over to the jurisdictional AO and it is satisfied that the same

would have no “*bearing on the determination of the total income*” for any particular AY, it would stand deprived of the authority to initiate action under Section 153C. This position, according to learned counsels, would prevail irrespective of whether the assessment relates to an abated year or one which has been completed. According to the petitioners, Section 153C carves out no distinction between abated and completed assessments, since the AO of the “*other person*” is not obliged to record a satisfaction separately for those assessments. They would contend that if no incriminating material in respect of an abated assessment year is found, no notice under Section 153C can justifiably be issued. This, since according to them, the absence of material “*having a bearing on the determination of the total income*” would constitute the non- fulfilment of a jurisdictional precondition.

26. It was submitted in this regard that if the AO of the non-searched entity were countenanced to have the authority to issue a notice referable to Section 153C, irrespective of whether any adverse material was discovered with respect to the abated AYs’, the same would clearly be contrary to Section 153C, which mandates that the AO must be satisfied that the seized material would “*have a bearing on the determination of the total income*” for that particular AY.

27. According to learned counsels, the aforesaid position would apply equally and irrespective of whether the assessment would stand abated or had been completed. It was in the aforesaid backdrop that it was contended that while in terms of the plain language of the Second Proviso to Section 153A, all proceedings pending in respect of the searched person would inevitably abate, the same would not be a consequence which would inevitably follow in the case of a non-

searched person. This, since the initiation of action under Section 153C rests on the formation of an opinion that the material unearthed is likely to impact the total income for the six AYs' or the "*relevant assessment year*", as the case may be.

28. According to the learned counsels, the aforesaid distinction must necessarily be acknowledged to exist and is vital for the purposes of understanding the scope of Section 153C and if the aforesaid position were to be ignored, it would result in assessments coming to be reopened under Section 153C even though no incriminating material for the said AY or AYs' may have been obtained. In view of the above, they would contend that the existence of incriminating material is a foundational imperative for the initiation of action under Section 153C.

29. The second limb of the submission was that the discovery of incriminating material would have to be examined in the context of the AY to which it may relate. The submission in essence was that merely because material may have been gathered during a search pertaining to a particular AY, the same would not justify the reopening or reassessment of all AYs' which may otherwise fall within the ambit of six AYs' immediately preceding the AY corresponding to the year of search or the "*relevant assessment year*".

30. It was lastly urged that the Act envisages and incorporates various provisions relating to assessment of income. According to learned counsels, one would have to bear in mind the clear distinction which exists between an assessment under Section 153C, a scrutiny assessment under Section 143(3), a best judgment assessment under Section 144 and assessment or reassessment of escaped assessment under Section 147. According to learned counsels, the assessment under

Section 153C is a special procedure carved out by the statute and which is liable to be invoked only consequent to adverse material relating to a third party having been discovered in the course of a search. It was their submission that the said provision can be invoked only if the jurisdictional preconditions are shown to exist.

31. Viewed in that light, learned counsels contended that Section 153C assessment is clearly distinct from a scrutiny assessment under Section 143(3) or a reassessment under section 147. They also contended that if the stand of the respondents were to be accepted, namely that the reopening of any AY would be justified notwithstanding no incriminating material specific to that year having been gathered, the same would clearly result in manifest arbitrariness.

32. It was further argued that at the stage of Section 153A, the AO of the searched person is only liable to be satisfied that the material gathered in the course of a search belongs or pertains to a person other than the entity which had been subjected to a search. However, and it was so submitted, Section 153C creates an additional safeguard when it provisions for the jurisdictional AO being liable to come to a conclusion that the material so handed over is likely to impact the computation of the six AYs' or the "*relevant assessment year*". This, according to learned counsels, constitutes a second level of satisfaction engrained in the provision itself. It was therefore submitted that since the notices impugned fail to meet the aforesaid statutory prescriptions, they are liable to be quashed and the writ petitions consequently allowed.

D. STAND OF THE RESPONDENTS

33. Mr. Sunil Agarwal, Mr. Sanjay Kumar and Mr. Puneet Rai, learned counsels advanced the following submissions on behalf of the respondents. They contended that at the time when the jurisdictional AO comes to issue notice under Section 153C of the Act, it has yet to examine the material in detail so as to assess the impact that the same may potentially have on the income for the period of six AYs' or the "*relevant assessment year*". According to learned counsels, it would be wholly incorrect for the AO being required to have formed a definitive opinion with respect to the income pertaining to the block of 10 AYs' individually for each AY.

34. According to learned counsels, if the aforesaid aspect is kept in mind, the jurisdictional AO would clearly be justified in commencing action under Section 153C, even if on a preliminary examination of the material handed over, it is found that the same is likely to "*have a bearing on the determination of the total income*" of a particular AY forming part of the block of the "*relevant assessment year*". As per the respondents, material found with respect to a particular AY out of the block of six or ten AYs' would be sufficient to commence action under Section 153C and assess or reassess income for the entire block of six or ten AYs', as the case may be.

35. They would contend that the abatement of all pending assessments would ensue upon the issuance of a notice under Section 153C, irrespective of the identified incriminating material being confined to a particular year or it being found to have a correlation with a particular AY out of the entire block of six or ten AYs'. The submission was that material for one or more of the AYs' would be sufficient for the block of six AYs' or the "*relevant assessment year*",

as the case may be, being subjected to assessment. It was also their contention that the material found in the course of the search need not be required to be specifically tied down to each of the six AYs' or the "*relevant assessment year*".

36. According to learned counsels, the jurisdictional AO would be justified in initiating action as long as the material gathered is likely to impact the assessment of total income of any one particular AY forming part of the block which comes to be thrown open under Section 153C. They contended that the underlying statutory scheme of Section 153C is liable to be recognised as warranting the entire block period of ten AYs' being scrutinised even though the proceedings may have been triggered by material that may pertain to a particular AY only. The aforesaid position, according to learned counsels, stands fortified from the statutory command of that provision which abates all pending assessments and enables the AO to reassess completed assessments which may fall within the four additional AYs' which are thrown open as well.

E. DISTINCTION BETWEEN SECTION 153A AND SECTION 153C

37. Having noticed the rival contentions which were addressed, we firstly take note of the evident distinction that exists between Section 153A and Section 153C. They are clearly couched in language which is dissimilar. When we turn our gaze upon Section 153A, it becomes apparent that where a search is initiated or documents and books requisitioned, the AO is mandated to issue notice calling upon the searched person to submit a ROI in respect of each AY falling within the six AYs' and for the "*relevant assessment year*". Upon submission

of that ROI, the AO stands empowered statutorily to assess or reassess the total income of six AYs' immediately preceding the assessment year corresponding to the year of search and for the "relevant assessment year". The expression "relevant assessment year" has been duly defined by Explanation 1 placed in Section 153A and is explained to include those years which fall beyond the six AYs' spoken of earlier but not later than ten AYs' from the end of the AY relevant to the FY in which the search was conducted.

38. As was held in **SSP Aviation Ltd v. Deputy Commissioner of Income Tax**¹⁸, the AO of the searched person while proceeding to transmit the material gathered in the course of the search to the AO of the "other person" is not obliged to form any opinion with respect to escapement of income or for that matter the material likely to have an impact on the total income of the non-searched entity. At the stage of transmission of material, the AO of the searched person is only required to be satisfied that the material or documents unearthed pertain to a person or entity other than the one searched. The relevant extracts of the decision in *SSP Aviation Ltd* are reproduced hereinbelow:

"15. It needs to be appreciated that the satisfaction that is required to be reached by the Assessing Officer having jurisdiction over the searched person is that the valuable article or books of account or documents seized during the search belong to a person other than the searched person. There is no requirement in section 153C(1) that the Assessing Officer should also be satisfied that such valuable articles or books of account or documents belonging to the other person must be shown to show to conclusively reflect or disclose any undisclosed income.

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17. The judgment of this court in *Saraya Industries Ltd.* (2008) 306 ITR 189 (Delhi) was relied upon by Mr. Bajpai, in support of

¹⁸ 2012 SCC Online Del 1898

his contention that the seizure of the document must be of such nature that even closed assessments for six years could be reopened and this requirement postulates that the provisions of section 153C can be set in motion only if there is a finding that the seized document or books of account or valuable article represents the undisclosed income of the other person. The said decision does not assist the petitioner. The section merely enables the Revenue authorities to investigate into the contents of the document seized, which belongs to a person other than the person searched so that it can be ascertained whether the transaction or the income embedded in the document has been accounted for in the case of the appropriate person. It is aimed at ensuring that income does not escape assessment in the hands of any other person merely because he has not been searched under section 132 of the Act. It is only a first step to the enquiry, which is to follow. The Assessing Officer who has reached the satisfaction that the document relates to a person other than the searched person can do nothing except to forward the document to the Assessing Officer having jurisdiction over the other person and thereafter it is for the Assessing Officer having jurisdiction over the other person to follow the procedure prescribed by section 153A in an attempt to ensure that the income reflected by the document has been accounted for by such other person. If he is so satisfied after obtaining the returns from such other person for the six assessment years, the proceedings will have to be closed. If the returns filed by the other person for the period of six years does not show that the income reflected in the document has been accounted for, additions will be accordingly made after following the procedure prescribed by law and after giving adequate opportunity of being heard to such other person. That, in sum and substance, is the position.

18. A reference to section 158BD of the Act, which falls under Chapter XIV-B, may be of some use. This section provided for assessment of the undisclosed income by any person other than the person searched under section 132. It applies to search conducted prior to May 31, 2003. It provided as follows:

"Where the Assessing Officer is satisfied that any undisclosed income belongs to any person, other than the person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, the books of account, other documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that the Assessing Officer shall proceed against such other person and the provisions of this Chapter shall apply accordingly."
(underlining ours)

It will be seen that whereas section 158BD refers to the satisfaction of the Assessing Officer that any "undisclosed income" belongs to any person other than the searched person, section 153C(1) in contrast refers merely to the satisfaction of the Assessing Officer that the valuable article or books of account or document "belongs" to a person other than the searched person. The latter provision does not refer to any undisclosed income at all. The machinery provided in section 153C read with section 153A merely facilitates an enquiry regarding the existence or otherwise of undisclosed income in the hands of the person other than the searched person. The starting point of the enquiry is the seizure of the valuable article or books of account or document, which according to the satisfaction reached by the Assessing Officer, belongs to a person other than the searched person. It is necessary to notice the difference between the two provisions in order to deal with the contention put forward by the learned counsel for the petitioner that the seizure itself is invalid or illegal on the ground that there could not have been any satisfaction before issuing the warrant of authorization under section 132 of the Act that the petitioner had earned undisclosed income because the income reflected in the seized documents, namely, the collaboration agreement dated August 24, 2006, and the assignment agreement dated July 21, 2006, had already been taken note of in the account books of the petitioner. This is a debatable issue as is apparent from the submission of the Revenue. They have submitted to the contrary. It cannot be said that the seizure of the documents was unwarranted or contrary to law. As noticed above, the Revenue has highlighted that finalization and audit of accounts was after the date of the search. The accounts for the year ended March 31, 2009, now relied upon by the petitioner, were finalized after the search on January 5, 2009. Seizure has to be judged in the perspective and the facts known and within the knowledge when it was made. On that date, the Revenue was not in a position to know whether any income from the transaction had been disclosed by the petitioner in its books of account for the year ended March 31, 2009. In the very nature of things, the warrant of authorization of the search under section 132 could not have been issued on the footing that there was undisclosed income in the case of the petitioner simply because action under section 132 was taken not against the petitioner, but against the Puri group of companies. Section 153C postulates that while conducting the search on the person in whose name the search warrant is issued under section 132, some valuable article or books of account or document is seized, which does not belong to the searched person but is seen to belong to any other person, the procedure stated therein should be followed. Therefore, nothing is to be gained from saying that the pre-

conditions mentioned in clauses (a), (b) and (c) of sub-section (1) of section 132 have not been satisfied vis-a-vis the petitioner so as to confer legality upon the seizure of the documents in question. In our opinion, it is not necessary for the Revenue authorities to have reasons to believe that the petitioner would not produce any books of account or document or that the petitioner is in possession of any money, bullion, jewellery or other valuable article or thing which it had not or will not disclose for the purpose of the assessment proceedings. The petitioner was not searched. Search was on a third person and the validity of the seizure has to be examined with reference to the said person searched. At the time when the Assessing Officer having jurisdiction over the searched person reaches the satisfaction that the document belongs to a person other than the searched person, it is not necessary for him to also reach a firm conclusion/opinion that the document shows undisclosed income belonging to such other person. That is a matter for enquiry, which is to be conducted in the manner prescribed by section 153C. The fact that the procedure envisaged by section 153C is somewhat cumbersome and that the person other than the searched person is put to some inconvenience cannot be an argument to hold that the entire proceedings are bad in law.”

39. The principle that the AO of the searched person is only required to be satisfied that the documents or materials pertain to the “*other person*” at the stage of transmission of material or documents to the jurisdictional AO of the non-searched entity was reiterated in *RRJ Securities*. We deem it apposite to extract the following passages from that decision:

“13. The first and foremost step for initiation of proceedings under Section 153C of the Act is for the AO of the searched person to be satisfied that the assets or documents seized belong to the Assessee (being a person other than the searched person). The AO of the Assessee, on receiving the documents and the assets seized, would have jurisdiction to commence proceedings under Section 153C of the Act. The AO of the searched person is not required to examine whether the assets or documents seized reflect undisclosed income. All that is required for him is to satisfy himself that the assets or documents do not belong to the searched person but to another person. Thereafter, the AO has to transfer the seized assets/documents to the AO having jurisdiction of the Assessee to whom such assets/documents belong. Section 153C(1) of the Act clearly postulates that once the AO of a

person, other than the one searched, has received the assets or the documents, he is to issue a notice to assess/re-assess the income of such person - that is, the Assessee other than the person searched - in accordance with provisions of Section 153A of the Act.

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18. It, plainly, follows that the recording of a satisfaction that the assets/documents seized belong to a person other than the person searched is necessarily the first step towards initiation of proceedings under Section 153C of the Act. In the case where the AO of the searched person as well as the other person is one and the same, the date on which such satisfaction is recorded would be the date on which the AO assumes possession of the seized assets/documents in his capacity as an AO of the person other than the one searched.

19. The Allahabad High Court in the case of Commissioner of income Tax v. Gopi Apartments: (2014) 360 ITR 411 has expressed a similar view in the following words:-

“25. A bare perusal of the provision contained in Section 153C of the I.T. Act leaves no doubt that, as is provided under Section 158BD, where the Assessing Officer, while proceeding under Section 153A against a person who has been subjected to search and seizure under Section 132(1) or has been proceeded under Section 132A, is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

Thus, there are two stages:

The first stage comprises of a search and seizure operation under Section 132 or proceeding under Section 132A against a person, who may be referred as 'the searched person'. Based on such search and seizure, assessment proceedings are initiated against the 'searched person' under Section 153A. At the time of initiation of such proceedings against the 'searched person' or during the assessment proceedings against him or even after the

completion of the assessment proceedings against him, the Assessing Officer of such a 'searched person', may, if he is satisfied, that any money, document etc. belongs to a person other than the searched person, then such money, documents etc. are to be handed over to the Assessing Officer having jurisdiction over 'such other person'.

The second stage commences from the recording of such satisfaction by the Assessing Officer of the 'searched person' followed by handing over of all the requisite documents etc. to the Assessing Officer of such 'other person', thereafter followed by issuance of the notice of the proceedings under Section 153C read with section 153A against such 'other person'.

The initiation of proceedings against 'such other person' are dependant upon a satisfaction being recorded. Such satisfaction may be during the search or at the time of initiation of assessment proceedings against the 'searched person', or even during the assessment proceedings against him or even after completion of the same, but before issuance of notice to the 'such other person' under Section 153C.

26. Even in a case, where the Assessing Officer of both the persons is the same and assuming that no handing over of documents is required, the recording of 'satisfaction' is a must, as, that is the foundation, upon which the subsequent proceedings against the 'other person' are initiated. The handing over of documents etc. in such a case may or may not be of much relevance but the recording of satisfaction is still required and in fact it is mandatory.”

20. Mention may also be made to the decision of the Madhya Pradesh High Court in Commissioner of Income Tax v. Mechmen: (2015) 60 taxmann.com 484 (Madhya Pradesh). In that case, the Court had explained that the fact that incidentally the AO is common at both stages would not extricate him from recording satisfaction at the respective stages. It was explained that since the satisfaction of the AO of a searched person that assets/documents seized belong to some other person is sine qua non to commencing proceedings under Section 153C of the Act in respect of such other person, the AO could not assume jurisdiction and transmit the items to another file concerning the person (other than the one searched) pending before him, before being satisfied that the seized assets/documents belonged to the other person.

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32. Section 153C of the Act merely requires the AO of a searched person to handover the assets and documents seized, which belong to another person, to the AO of that person. The AO of a searched person is not required to examine whether such documents could provide a clue for discovery of undisclosed income of the person to whom the document so belongs. This Court in SSP Aviation Ltd. (supra) had observed as under:-

“At the time when the Assessing Officer having jurisdiction over the searched person reaches the satisfaction that the document belongs to a person other than the searched person, it is not necessary for him to also reach a firm conclusion/opinion that the document shows undisclosed income belonging to such other person. That is a matter for enquiry, which is to be conducted in the manner prescribed by section 153C.””

40. It is thus apparent that it is only when the transmitted documents and material reaches the desk of the jurisdictional AO that it becomes empowered to initiate action under Section 153C of the Act. This is evident from a plain textual reading of that provision and which speaks of the commencement point being the handing over of documents or assets seized or requisitioned to the AO of the “*other person*” and it in turn proceeding to issue notice to assess or reassess the income of the non-searched entity in accordance with Section 153A. However, the initiation of action under Section 153C is significantly premised upon the AO being satisfied that the books of account or documents and assets seized or requisitioned having “*a bearing on the determination of the total income of such other person*”. This is manifest from the provision employing the expression “*if, that Assessing Officer is satisfied.....*”. It would therefore necessarily follow that the issuance of a notice under Section 153C is clearly not intended to be an inevitable consequence to the receipt of material by the jurisdictional AO. That the AO before commencement of action under Section 153C is also obliged to be satisfied that the material so received would “*have a*

bearing on the determination of the total income of such other person” is an aspect of significance and constitutes a fundamental point of distinction between Section 153A and Section 153C. This distinguishing element of the two provisions would become further apparent from the discussion which ensues.

41. Firstly, and from a historical perspective of the legislation itself, we find that one of the significant amendments which came to be introduced in Section 153C was ushered in 2014. The Finance (No. 2) Bill, 2014, while seeking to explain the objective of the amendments which were proposed to be incorporated declared as follows:

“Assessment of income of a person other than the person who has been searched

Section 153C of the Act relates to assessment of income of any other person. The existing provisions contained in sub-section (1) of the said section 153C provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong to any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

It is proposed to amend section 153C of the Act to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to any person, other than the person referred to in section 153A, then books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance

with the provisions of section 153A if he 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.

The amendment will take effect from 1st October, 2014.”

42. It would also be apposite to notice the Notes on Clause 53 of the Finance Bill, 2014, which sought to amend Section 153C and which is reproduced hereinbelow:

“Clause 53 of the Bill seeks to amend section 153C of the Income-tax Act relating to assessment of income of any other person.

The existing provisions contained in sub-section (1) of the aforesaid section provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

It is proposed to amend the said sub-section so as to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and 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, such 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.**

This amendment will take effect from 1st October, 2014.”

43. It was consequent to the passing of the aforesaid Act that Section 153C came to incorporate provisions relating to the AO being satisfied that the books of accounts, documents or assets seized or requisitioned must “*have a bearing on the determination of the total income of such other person*” for the six preceding AYs’ or the “*relevant assessment year*” as referred to in Explanation 1 to Section 153A. Prior to the promulgation of these amendments, the AO of the non-searched party was not obliged to form an opinion that the material received by it was likely to impact the estimation of income of that person. Significantly, although this prerequisite came to be incorporated in Section 153C, no such corresponding precondition was included in Section 153A. This, although the legislative history of the search assessment provisions placed in the Act would indicate that they were amended from time to time in order to constitute a complete and homogeneous code. This becomes apparent from the legislative mandate of those two provisions being applicable to searches undertaken in a particular time period, the principles of abatement being replicated and the search assessment power being available to be invoked for the “*relevant assessment year*”, and which extended the power to be exercised over a ten year block, being simultaneously introduced in those provisions. The Legislature clearly intended both these provisions to form part of a cohesive scheme and to be complementary to each other. However, the aspects of satisfaction and of the material likely to implicate or influence were not added in Section 153A. The fact that any additions that may be ultimately made upon a culmination of assessment under Section 153A being indelibly founded on the material gathered in the course of the

search is a separate issue all together.

44. The usage of the expression “*have a bearing*” would necessarily lead one to conclude that the mere discovery of books, documents or assets would not justify the initiation of proceedings under that provision. Upon receipt of that material, the jurisdictional AO must additionally be satisfied that those are likely to have an impact on “*the determination of the total income*”. The **Shorter Oxford English Dictionary**¹⁹ assigns the following meaning to the word “*bearing*”:

“1. The action of BEAR verb: carrying, bringing; supporting, sustaining, enduring; giving birth, producing; thrusting, pressing.

2. Manner of carrying oneself, bodily attitude; demeanour.

3. A material support; a supporting surface.

4. A heraldic charge or device: in pl., that which is depicted on a coat of arms; a heraldic achievement, a coat of arms.

5. The direction in which a place, object, etc., lies; direction of movement, orientation; in pl., (knowledge of) relative position.

6. sing. & (freq.) in pl. Part of a machine which bears friction, esp. between a rotating part and its housing.

7. Practical relation or effect (up)on; influence, relevance”

As is manifest from the aforesaid extract, “*bearing*” would include something which would lend support or credence. It has also been defined to mean something which may have a practical relation or effect upon, influence or relevance.

45. The **Major Law Lexicon**²⁰, authored by P. Ramanatha Aiyar explains “*Bearing on, Having*” as referring to something having a relation with. For ease of reference, the meaning assigned to the aforesaid expression is reproduced hereinbelow:

“**Bearing on, Having.** Having relation with”

¹⁹ Fifth Edition, Volume – 1 (2002)

²⁰ 4th Edition, Vol. 3 (2010)

46. The **New Lexicon Webster's Dictionary**²¹ defines the word "*bearing*" as follows:

"The action of carrying // carriage, deportment// (heraldry) a single charge // relevancy, that has no bearing on the matter // endurance, the capacity to tolerate, behaviour past all bearing // (pl.) position in relation to some reference point // (pl/) grasp of one's situation, to find one's bearings // a part of a machine that bears the friction set up by a moving part. Sliding friction is reduced by making the bearing of Babbitt metal, and by separating it and its moving part by a thin film of lubricant. By the introduction of ball bearings (or roller bearings) sliding friction is replaced by rolling friction, which is must less in effect // an angle measured from true north, magnetic north, or from some given survey line to lose one's bearings to be lost// to be puzzled."

47. This too speaks of "*relevancy*" as one of the meanings one may gather where that particular expression is used. This leads us to the inevitable conclusion that the initiation of action under Section 153C would have to be founded on a formation of opinion by the jurisdictional AO that the material handed over and received pursuant to a search is likely to influence the "*determination of the total income*" and would be of relevancy for the purposes of assessment or reassessment.

F. INCRIMINATING MATERIAL- CASCADING EFFECT?

48. In terms of the Second Proviso to Section 153A, all assessment or reassessment proceedings relating to the six AYs' or the "*relevant assessment year*" pending on the date of search are statutorily envisaged to abate. Abatement is envisioned to be an inevitable consequence of the initiation of action under Section 153A. Neither issuance of notice nor abatement are predicated upon a formation of

²¹ Encyclopedic Edition, 1989

opinion by the AO of the searched person that the material is likely to impact the total income of that assessee. However, the spectre of abatement insofar as the “*other person*” is concerned would arise only after the jurisdictional AO has formed the requisite satisfaction of the material having “*a bearing on the determination of the total income of such other person*” and having formed the opinion that proceedings under Section 153C are liable to be initiated. It would be pertinent to bear in mind that *Kabul Chawla* was a decision rendered in the context of Section 153A. It was in the aforesaid backdrop that the Court significantly observed that once a search takes place under Section 132 of the Act, notice under Section 153A(1) would mandatorily issue. The abatement of assessment and reassessment pending on that date would, in the case of a Section 153A assessment, be a preordained consequence. However, and in light of what has been observed hereinabove, it is apparent that Section 153C constructs a subtle and yet significant distinction insofar as the question of commencement of proceedings or assumption of jurisdiction is concerned.

49. That takes us to the principal question and which pertains to the nature of the incriminating material that may be obtained and the years forming part of the block which would merit being thrown open. Regard must be had to the fact that while Section 153C enables and empowers the jurisdictional AO to commence assessment or reassessment for a block of six AYs’ or the “*relevant assessment year*”, that action is founded on satisfaction being reached that the books of accounts, documents or assets seized “*have a bearing on the determination of the total income of such other person*”. We in this regard bear in mind the well settled distinction which the law

recognizes between the existence of power and the exercise thereof. Section 153C enables and empowers the jurisdictional AO to assess or reassess the six AYs' or the "*relevant assessment year*". The Act thus sanctions and confers an authority upon the AO to exercise the power placed in its hands for up to a maximum of ten AYs'. Despite the conferral of that power, the question which would remain is whether the facts and circumstances of a particular case warrant or justify the invocation of that power. It is the aforesaid aspect which bids us to reiterate the distinction between the existence and exercise of power.

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

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

block of ten years.

52. The decisions which hold that an assessment is liable to be revised only if incriminating material be found, even if rendered in the context of Section 153A, would clearly govern the question that stands posited even in the context of Section 153C. It would be relevant to recall that the Division Bench in *Kabul Chawla* had observed that in the absence of any incriminating material, a completed assessment may be reiterated and the abated assessment or reassessment be concluded. The importance of incriminating material was further underlined in *Kabul Chawla* with the Court observing that completed assessments could be interfered with, only if some incriminating material were unearthed. This aspect came to be reiterated in *RRJ Securities* when the Court held that it would be impermissible to either reopen or reassess a completed assessment which may not be impacted by the material gathered in the course of the search and which may have no plausible nexus. The aforesaid position also comes to the fore when one reads para 17 of *ARN Infrastructure* and which annulled an action aimed at reopening assessments for years to which the incriminating document which was found did not relate.

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

54. In any case, *Abhisar Buildwell*, in our considered opinion, is a

decision which conclusively lays to rest any doubt that could have been possibly harboured. The Supreme Court in unequivocal terms held that absent incriminating material, the AO would not be justified in seeking to assess or reassess completed assessments. Though the aforesaid observations were rendered in the context of completed assessments, the same position would prevail when it comes to assessments which abate pursuant to the issuance of a notice under Section 153C. Here too, the AO would have to firstly identify the AYs' to which the material gathered in the course of the search may relate and consequently it would only be those assessments which would face the spectre of abatement. The additions here too would have to be based on material that may have been unearthed in the course of the search or on the basis of material requisitioned. The statute thus creates a persistent and enduring connect between the material discovered and the assessment that may be ultimately made. The provision while speaking of AYs' falling within the block of six AYs' or for that matter all years forming part of the block of ten AYs', appears to have been put in place to cover all possible contingencies. The aforesaid provisions clearly appear to have been incorporated and made applicable both with respect to Section 153A as well as Section 153C *ex abundanti cautela*. Which however takes us back to what had been observed earlier, namely, the existence of the power being merely enabling as opposed to a statutory compulsion or an inevitable consequence which was advocated by the respondents.

55. Take for instance a case where the material gathered in the search is contemplated to have an adverse impact on the declarations and disclosures made by an assessee pertaining only to AYs' 2016-17

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

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

the aforementioned judgments thus reinforce the requirement of incriminating material having an ineradicable link to the estimation of income for a particular AY.

57. It becomes pertinent to note that both Sections 153A and 153C require the assessee upon being placed on notice to furnish ROIs' for the six AYs' or the "*relevant assessment year*". All that the two provisions mandate is that notwithstanding the submission of those ROIs', the AO would frame one assessment order in respect of each of the years which were made subject matter of the notice and which would deal with both disclosed and undisclosed income. This too reinforces our view that Section 153C would apply only to such AYs' where the jurisdictional AO is satisfied and has incriminating material for those AYs' and which may be concerned with disclosed and undisclosed income.

58. The aforesaid position stands further fortified from a reading of the First Proviso to Section 153A and which speaks of the power of the AO to assess or reassess the total income in respect of "*each assessment year*". The aforesaid phraseology stands replicated in Section 153B(1)(a) which again alludes to "*each assessment year*" falling within the six AYs or the "*relevant assessment year*". The aforesaid language is then reiterated in Section 153D and which prescribes that no order of assessment or reassessment shall be passed by an AO in respect of "*each assessment year*" referred to in Section 153A or 153B of the Act, except with the prior approval of the Joint Commissioner. We note that once the aforesaid principles are borne in mind, there would exist no discernible distinction between abated and completed assessments. This, since in both situations, the AO would be

bound to base its decision to abate or reopen on material that is likely to impact the assessment of the total income for a particular AY. In case of assessment proceedings which are ongoing on the date when the AO proceeds to draw its satisfaction and in respect of which no incriminating material has been discovered, there would exist no justification to initiate proceedings under Section 153C.

59. It would be pertinent to recall that Section 153C essentially seeks to merge ongoing assessments with a search assessment which may be triggered by the discovery of material obtained in a search and which was the statutory procedure which prevailed in terms of the provisions contained in Chapter XIV B. However, and in cases where on facts it is found that the material gathered is unlikely to have any impact on the computation of total income for a particular year, there would exist no justification to invoke the powers conferred by Section 153C.

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

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

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

G. CONCLUSIONS

63. On an overall consideration of the structure of Sections 153A and 153C, we thus find that a reopening or abatement would be triggered

only upon the discovery of material which is likely to “*have a bearing on the determination of the total income*” and would have to be examined bearing in mind the AYs’ which are likely to be impacted. It would thus be incorrect to either interpret or construe Section 153C as envisaging incriminating material pertaining to a particular AY having a cascading effect and which would warrant a mechanical and inevitable assessment or reassessment for the entire block of the “*relevant assessment year*”.

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

regard is formed that the AO would be legally justified in issuing a notice under that provision and which in turn would culminate in the abatement of pending assessments or reassessments as the case may be.

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

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

67. On an overall consideration of the aforesaid, we come to the firm conclusion that the "*incriminating material*" which is spoken of would have to be identified with respect to the AY to which it relates or may be likely to impact before the initiation of proceedings under Section 153C of the Act. A material, document or asset recovered in the course of a search or on the basis of a requisition made would justify abatement of only those pending assessments or reopening of such

concluded assessments to which alone it relates or is likely to have a bearing on the estimation of income. The mere existence of a power to assess or reassess the six AYs' immediately preceding the AY corresponding to the year of search or the "*relevant assessment year*" would not justify a sweeping or indiscriminate invocation of Section 153C.

68. The jurisdictional AO would have to firstly be satisfied that the material received is likely to have a bearing on or impact the total income of years or years which may form part of the block of six or ten AYs' and thereafter proceed to place the assessee on notice under Section 153C. The power to undertake such an assessment would stand confined to those years to which the material may relate or is likely to influence. Absent any material that may either cast a doubt on the estimation of total income for a particular year or years, the AO would not be justified in invoking its powers conferred by Section 153C. It would only be consequent to such satisfaction being reached that a notice would be liable to be issued and thus resulting in the abatement of pending proceedings and reopening of concluded assessments.

H. OPERATIVE DIRECTIONS

69. When tested in light of the aforesaid principles, we find that except for a few exceptions which were noticed in the introductory parts of this judgment, the writ petitions forming part of this batch, impugn the invocation of Section 153C in respect of AYs' for which no incriminating material had been gathered or obtained. The Satisfaction Notes also fail to record any reasons as to how the material discovered and pertaining to a particular AY is likely to "*have a bearing on the determination of the total income*" for the year which is sought to be

abated or reopened in terms of the impugned notices. The respondents have erroneously proceeded on the assumption that the moment any material is recovered in the course of a search or on the basis of a requisition made, they become empowered in law to assess or reassess all the six AYs' years immediately preceding the assessment correlatable to the search year or the "*relevant assessment year*" as defined in terms of Explanation 1 of Section 153A. The said approach is clearly unsustainable and contrary to the consistent line struck by the precedents noticed above.

70. There are two writ petitions forming part of this batch which however need to be examined and dealt with separately. W.P.(C) 3007/2023 assails a notice under Section 153C pertaining to AY 2013-14. The Satisfaction Note dated 20 October 2022 alludes to incriminating material having been recovered for FYs' 2012-13 and 2013-14 and consequently the corresponding AYs' being AY 2013-14 and 2014-15. Ex facie, the impugned notice pertains to an assessment period in respect of which material had been specifically identified.

71. Similarly, in W.P. (C) 3019/2023, the challenge is to a notice relating to AY 2014-15. A reading of the Satisfaction Note placed at Annexure J would indicate that here too there is a clear reference to the material that was obtained and was correlatable to the said AY.

72. Consequently, the aforementioned two writ petitions would not be entitled to succeed on grounds which were urged on behalf of the writ petitioners. Accordingly, and while we would dismiss these two writ petitions, we leave all other contentions of parties open to be addressed in the proceedings presently ongoing.

73. Accordingly, and for all the aforesaid reasons, we allow the present writ petitions and quash the impugned notices insofar as they pertain to AYs' 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21 as per the details set out in the chart extracted hereinabove. W.P.(C) Nos. 3007/2023 and 3019/2023, however, for reasons aforementioned shall stand dismissed subject to the observations made hereinabove.

YASHWANT VARMA, J

PURUSHAINDRA KUMAR KAURAV, J

APRIL 09, 2024/kk/neha



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