



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 22 February, 2024**  
**Judgment pronounced on: 03 April, 2024**

+ ITA 52/2024

THE PR. COMMISSIONER OF INCOME  
TAX -CENTRAL-1

..... Appellant

Through: Mr. Ruchir Bhatia, SSC with Ms.  
Deeksha Gupta, Adv.

versus

OJJUS MEDICARE PVT. LTD. .... Respondent

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

+ W.P.(C) 3714/2023 & CM APPL. 14341/2023 (Interim Relief)  
ASHWANI KUMAR GUPTA .... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME  
TAX CENTRAL CIRCLE 17, & ANR. .... Respondents

Through: Mr. Zoheb Hossain, SSC with  
Mr. Sanjeev Menon, JSC.

+ W.P.(C) 3907/2023 & CM APPLs. 15158/2023 (Stay) and  
62298/2023

VINEETA GUPTA .... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,



Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 46(4)  
DELHI AND ANR

..... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 333/2024 & CM APPL. 1511/2024 (Interim Relief)  
KAPAREVA DEVELOPMENT PRIVATE  
LIMITED

..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE - 28, DELHI & ORS.

..... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 334/2024 & CM APPL. 1514/2024 (Interim Relief)  
KAPAREVA DEVELOPMENT PRIVATE  
LIMITED

..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE - 28, DELHI & ORS.

..... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.



Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 335/2024 & CM APPL. 1519/2024 (Interim Relief)  
KAPAREVA DEVELOPMENT PRIVATE  
LIMITED ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE - 28, DELHI & ORS. .... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 4784/2023 & CM APPL. 18488/2023 (Stay)  
ALANKIT INSURANCE BROKERS LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.



+ W.P.(C) 4836/2023 & CM APPL. 18693/2023 (Stay)  
ALANKIT FINSEC LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.  
Mr. Vikas Pahwa, SSC with Mr. Prabhav Palli, Ms. Nimisha Jain, Mr. Aditya Shukla and Mr. Kushal Gupta, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28 DELHI ..... Respondent  
Through: Mr. Abhishek Maratha, Sr. Standing Counsel with Mr. Parth Semwal, Jr. Standing Counsel and Ms. Nupur Sharma, Advs.

+ W.P.(C) 4944/2023 & CM APPL. 19152/2023 (Stay)  
NEW WAVE REALTORS PRIVATE LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

INCOME TAX OFFICER, WARD 18(3),  
DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami,



Advs.

+ W.P.(C) 4993/2023 & CM APPL. 19488/2023 (Stay)  
VINEETA GUPTA ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

INCOME TAX OFFICER WARD  
46(4 )& ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 5128/2023 & CM APPL. 20044/2023 (Stay)  
SHASHI GARG ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE- 28, DELHI & ANR. .... Respondents  
Through: Mr. Abhishek Maratha, Sr. Standing Counsel with Mr. Parth Semwal, Jr. Standing Counsel and Ms. Nupur Sharma, Advs.



+ W.P.(C) 5130/2023 & CM APPL. 20048/2023 (Stay)  
VINOD KUMAR GARG ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Abhishek Maratha, Sr. Standing Counsel with Mr. Parth Semwal, Jr. Standing Counsel and Ms. Nupur Sharma, Advs.

+ W.P.(C) 5150/2023 & CM APPL. 20099/2023 (Stay)  
NEW WAVE REALTORS PRIVATE LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 5181/2023 & CM APPL. 20217/2023 (Stay)  
ALANKIT INSURANCE BROKERS LIMITED ..... Petitioner



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

versus

DEPUTY COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 5182/2023 & CM APPL. 20219/2023 (Stay)  
ALANKIT INSURANCE TPA LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI ..... Respondent

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 5215/2023 & CM APPL. 20383/2023 (Stay)  
VINOD KUMAR GARG ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya



Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Abhishek Maratha, Sr.  
Standing Counsel with Mr.  
Parth Semwal, Jr. Standing  
Counsel and Ms. Nupur  
Sharma, Advs.

+ W.P.(C) 5216/2023 & CM APPL. 20385/2023 (Stay)  
ALKA AGARWAL ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv..

+ W.P.(C) 5217/2023 & CM APPL. 20387/2023 (Stay)  
VIKAS SURYA DEVELOPERS  
PRIAVTE LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,



Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE-28, DELHI & ANR. .... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Advs.

+ W.P.(C) 5224/2023 & CM APPL. 20409/2023 (Stay)

ALKA AGARWAL .... Petitioner

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

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE-28, DELHI .... Respondent

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 5236/2023 & CM APPL. 20429/2023 (Stay)

ALANKIT FOREX INDIA LIMITED .... Petitioner

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



versus

DY. COMMISSIONER OF INCOME TAX

CENTRAL CIRCLE 28, DELHI

..... Respondent

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

+ W.P.(C) 5240/2023 & CM APPL. 20469/2023 (Stay)

TINA ORGANICS PVT. LTD.

..... Petitioner

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

versus

DEPUTY COMMISSIONER OF INCOME TAX,

CENTRAL CIRCLE -28

..... Respondent

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

+ W.P.(C) 5249/2023 & CM APPL. 20484/2023 (Stay)

PRATISHTHA IMAGES PRIVATE LIMITED

..... Petitioner

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

versus



DEPUTY COMMISSIONER OF INCOME TAX

CENTRAL CIRCLE 28 DELHI

..... Respondent

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 5252/2023 & CM APPL. 20552/2023 (Stay)

ALANKIT FINSEC LIMITED

..... Petitioner

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

versus

DEPUTY COMMISSIONER OF INCOME TAX

CENTRAL CIRCLE 28, DELHI

..... Respondent

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

+ W.P.(C) 5368/2023 & CM APPL. 20965/2023 (Stay)

TINA ORGANICS PVT. LTD.

..... Petitioner

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

versus

DEPUTY COMMISSIONER OF INCOME TAX,

CENTRAL CIRCLE -28

..... Respondent



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

+ W.P.(C) 5370/2023 & CM APPL. 20969/2023 (Stay)  
ALANKIT FOREX INDIA LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI ..... Respondent

Through: Mr. Abhishek Maratha, SSC  
Mr. Parth Semwal, JSC.

+ W.P.(C) 5626/2023 & CM APPL. 22083/2023 (Stay)  
PRATISHTHA IMAGES PRIVATE LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28 DELHI ..... Respondent

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,



Advs.

+ W.P.(C) 5976/2023 & CM APPL. 23470/2023 (Stay)  
MOHAN KUMAR GARG ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 5643/2023 & CM APPL. 22123/2023 (Stay)  
ALANKIT INSURANCE TPA LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,



Advs.

+ W.P.(C) 5662/2023 & CM APPL. 22160/2023 (Stay)  
TARUN KUMAR SAHAY ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 5789/2023 & CM APPL. 22664/2023 (Stay)  
VIKAS PROMOTERS PRIVATE LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.



+ W.P.(C) 5790/2023 & CM APPL. 22666/2023 (Stay)  
VINOD KUMAR MAHESHWARI ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 5794/2023 & CM APPL. 22676/2023 (Stay)  
VINOD KUMAR MAHESHWARI ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.



+ W.P.(C) 6160/2023 & CM APPL. 24242/2023 (Stay)  
SHANTI KUMAR AGARWAL HUF ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents  
Through: Mr. Abhishek Maratha, Sr. Standing Counsel with Mr. Parth Semwal, Jr. Standing Counsel and Ms. Nupur Sharma, Advs.

+ W.P.(C) 6260/2023 & CM APPL. 24598/2023 (Stay)  
VIKAS PROMOTERS PRIVATE LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 6284/2023 & CM APPL. 24651/2023 (Stay)



TARUN KUMAR SAHAY ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI ..... Respondent  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 6673/2023 & CM APPL. 26129/2023 (Stay)  
SAKSHI AGARWAL ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE-28, DELHI ..... Respondent  
Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 6962/2023 & CM APPL. 27125/2023 (Stay)  
VINEETA GUPTA ..... Petitioner



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

versus

INCOME TAX OFFICER, WARD 46(4),  
DELHI & ANR.

..... Respondents

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 7157/2023 & CM APPL. 27900/2023 (Stay)  
PRATISHTHA IMAGES PRIVATE LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI

..... Respondent

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs, Mr. Ujjwal Jain and Mr. Shashank Kesarwami, Advs.

+ W.P.(C) 7272/2023 & CM APPL. 28285/2023 (Stay)  
ALKA AGARWAL ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit



2024 : DHC : 2629-DE



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

versus

DY. COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE 28, DELHI ..... Respondent

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 7279/2023 & CM APPL. 28308/2023 (Stay)

ALANKIT INSURANCE TPA LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 7281/2023 & CM APPL. 28310/2023 (Stay)

ALANKIT INSURANCE BROKERS LIMITED ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.



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

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 7283/2023 & CM APPL. 28315/2023 (Stay)

ALANKIT FINSEC LIMITED ..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI ..... Respondent

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

+ W.P.(C) 7374/2023 & CM APPL. 28728/2023 (Stay)

SHANTI KUMAR AGARWAL HUF ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,



Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX  
CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents

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

+ W.P.(C) 7401/2023 & CM APPL. 28789/2023 (Stay)  
ALANKIT FOREX INDIA LIMITED .... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DY.COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI .... Respondent

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

+ W.P.(C) 7821/2023 & CM APPL. 30158/2023 (Stay)  
VIVEK GARG .... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.



Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

DY. COMMISSIONER OF INCOME TAX

CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 7822/2023 & CM APPL. 30163/2023 (Stay)

VIVEK GARG

..... Petitioner

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

versus

DY. COMMISSIONER OF INCOME TAX

CENTRAL CIRCLE 28, DELHI & ANR. .... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 9124/2023 & CM APPL. 34707/2023 (Stay)

NEW WAVE REALTORS PRIVATE LIMITED .... Petitioner

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



Kapoor, Advs.

versus

DEPUTY COMMISSIONER OF INCOME  
TAX CIRCLE 28, DELHI & ANR.

..... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 383/2024 & CM APPL. 1782/2024 (Stay)

ANUJ SHARMA

..... Petitioner

Through: Mr. Ajay Wadhwa, Ms. Ragini  
Handa & Mr. Ujjwal Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME

TAX, CENTRAL CIRCLE 28, DELHI & ORS. ... Respondents

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

+ W.P.(C) 384/2024 & CM APPL. 1784/2024 (Stay)

ANUJ SHARMA

..... Petitioner

Through: Mr. Ajay Wadhwa, Ms. Ragini  
Handa & Mr. Ujjwal Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,

CENTRAL CIRCLE 28, DELHI & ORS. .... Respondents

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



+ W.P.(C) 400/2024 & CM APPL. 1814/2024 (Stay)  
ANUJ SHARMA ..... Petitioner  
Through: Mr. Ajay Wadhwa, Ms. Ragini  
Handa & Mr. Ujjwal Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,  
CENTRAL CIRCLE 28, DELHI & ORS. .... Respondents  
Through: Mr. Abhishek Maratha, Sr.  
Standing Counsel with Mr.  
Parth Semwal, Jr. Standing  
Counsel and Ms. Nupur  
Sharma, Advs.

+ W.P.(C) 457/2024 & CM APPL. 2097/2024 (Stay)  
ANKIT AGARWAL -LEGAL HEIR OF  
LATE SHANTI KUMAR AGGARWAL ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, 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 and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 463/2024 & CM APPL. 2104/2024 (Stay)  
ANKIT AGARWAL -LEGAL HEIR OF LATE  
SHANTI KUMAR AGGARWAL ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.



Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, 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 and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 476/2024 & CM APPL. 2123/2024 (Stay)

SUNOJ ENGINEERS PVT LTD ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, 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 and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 477/2024 & CM APPL. 2125/2024 (Stay)

ANKIT AGARWAL -LEGAL HEIR OF LATE  
SHANTI KUMAR AGGARWAL ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.



Amandeep Mehta & Mr. Sanat Kapoor, 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 and Ms. Mahima Garg, Adv.

+ W.P.(C) 622/2024 & CM APPL. 2734/2024 (Stay)  
SAKSHAM INVESTOR SERVICES  
PRIVATE LIMITED

..... Petitioner

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

versus

INCOME TAX OFFICER, WARD 22-1,  
NEW DELHI & ANR.

..... Respondents

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC, Mr. Utkarsh Tiwari and Mr. Amaan Ahmed Khan, Advs.

+ W.P.(C) 623/2024 & CM APPL. 2736/2024 (Stay)  
PACK PLAST -INDIA- PRIVATE LIMITED

..... Petitioner

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



versus

INCOME TAX OFFICER WARD 19-3,  
DELHI & ANR.

..... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Advs.

+ W.P.(C) 627/202 & CM APPL. 2746/2024 (Stay)

SAKSHAM COMMODITIES LIMITED ..... Petitioner

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

versus

INCOME TAX OFFICER, WARD 22-1,  
NEW DELHI & ANR.

..... Respondents

Through: Mr. Sunil Agarwal, SSC with  
Mr. Shivansh B. Pandya, JSC,  
Mr. Utkarsh Tiwari and Mr.  
Amaan Ahmed Khan, Advs.

+ W.P.(C) 630/2024, CM APPL. 2752/2024 (Stay)

PACK PLAST -INDIA- PRIVATE LIMITED ..... Petitioner

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

versus



INCOME TAX OFFICER WARD 19-3,  
DELHI & ANR.

..... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Advs.

+ W.P.(C) 639/2024 & CM APPL. 2795/2024 (Stay)

PACK PLAST -INDIA- PRIVATE LIMITED ..... Petitioner

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

versus

INCOME TAX OFFICER WARD 19-3,  
DELHI & ANR.

..... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Advs.

+ W.P.(C) 694/2024 & CM APPL. 3075/2024 (Stay)

SUSHEEL JAIN

..... Petitioner

Through: Mr. Gautam Jain, Ms. Reeta  
Chaudhary & 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 and Ms. Mahima  
Garg, Adv.



+ W.P.(C) 697/2024 & CM APPL. 3083/2024 (Stay)  
PACK PLAST -INDIA- PRIVATE LIMITED ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 19-3,  
DELHI AND ANR. .... Respondents  
Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary, Mr. Aditya Gupta & Ms. Nivedita, Advs.

+ W.P.(C) 704/2024 & CM APPL. 3124/2024 (Stay)  
SUNOJ ENGINEERS PVT LTD ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, 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 and Ms. Mahima Garg, Adv.

+ W.P.(C) 728/2024 & CM APPL. 3204/2024 (Interim Relief)  
VIKAS WAHI ..... Petitioner  
Through: Dr. Rakesh Gupta, Mr. Somil



Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

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

+ W.P.(C) 731/2024 & CM APPL. 3210/2024 (Interim Relief)  
VIKAS WAHI ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

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

+ W.P.(C) 733/2024 & CM APPL. 3213/2024 (Interim Relief)  
VIKAS WAHI ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

Through: Mr. Abhishek Maratha, Sr.  
Standing Counsel with Mr.



Parth Semwal, Jr. Standing  
Counsel and Ms. Nupur  
Sharma, Advs.

+ W.P.(C) 734/2024 & CM APPL. 3218/2024 (Interim Relief)  
VIKAS WAHI ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

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

+ W.P.(C) 794/2024 & CM APPL. 3428/2024 (Stay)  
JAGMOHAN KEJRIWAL ..... Petitioner

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

versus

INCOME TAX OFFICER WARD 62(1),  
DELHI & ANR. .... Respondents

Through: Mr. Vipul Agarwal, SSC with  
Mr. Gibran Naushad & Ms.  
Sakshi Shairwal, JSCs.

+ W.P.(C) 795/2024 & CM APPL. 3430/2024 (Stay)  
JAGMOHAN KEJRIWAL ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit



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

versus

INCOME TAX OFFICER WARD 62(1),  
DELHI & ANR.

..... Respondents

Through: Mr. Vipul Agarwal, SSC with  
Mr. Gibran Naushad & Ms.  
Sakshi Shairwal, JSCs.

+ W.P.(C) 824/2024 & CM APPL. 3522/2024 (Stay)

JAGMOHAN KEJRIWAL

..... Petitioner

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

versus

INCOME TAX OFFICER WARD 62(1),  
DELHI & ANR.

..... Respondents

Through: Mr. Vipul Agarwal, SSC with  
Mr. Gibran Naushad & Ms.  
Sakshi Shairwal, JSCs.

+ W.P.(C) 826/2024 & CM APPL. 3525/2024 (Stay)

JAGMOHAN KEJRIWAL

..... Petitioner

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



Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 62(1),  
DELHI & ANR.

..... Respondents

Through: Mr. Vipul Agarwal, SSC with  
Mr. Gibran Naushad & Ms.  
Sakshi Shairwal, JSCs.

+ W.P.(C) 829/2024 & CM APPL. 3530/2024 (Interim Relief)  
MAMTA AGARWAL

..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

..... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 861/2024 & CM APPL. 3626/2024 (Interim Relief)  
MAMTA AGARWAL

..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

..... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.



+ W.P.(C) 873/2024 & CM APPL. 3649/2024 (Interim Relief)  
MAMTA AGARWAL ..... Petitioner  
Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX  
(CENTRAL CIRCLE) 28 DELHI & ANR. .... Respondents  
Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 991/2024 & CM APPL. 4112/2024 (Interim Relief)  
ASHUTOSH AGARWAL ..... Petitioner  
Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX  
(CENTRAL CIRCLE) 28 DELHI ORS ..... Respondents  
Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Advs.

+ W.P.(C) 1018/2024 & CM APPL. 4234/2024 (Interim Relief)  
ASHUTOSH AGARWAL ..... Petitioner  
Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX



(CENTRAL CIRCLE) 28 DELHI ORS ..... Respondents

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Adv.

+ W.P.(C) 1025/2024 & CM APPL. 4247/2024 (Interim Relief)  
ASHUTOSH AGARWAL ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME  
TAX CENTRAL CIRCLE 28, ..... Respondent

Through: Mr. Shlok Chandra, SSC with  
Ms. Madhavi Shukla, Ms. Priya  
Sarkar, JSCs, Mr. Ujjwal Jain  
and Mr. Shashank Kesarwami,  
Adv.

+ W.P.(C) 1049/2024 & CM APPL. 4406/2024 (Interim Relief)  
INDO GREENFUEL PRIVATE LIMITED ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Adv.

versus

ASSITANT COMMISSIONER OF INCOME  
TAX CENTRAL CIRCLE -28, DELHI & ORS .... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 1050/2024 & CM APPL. 4408/2024 (Interim Relief)  
INDO GREENFUEL PVT LTD ..... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil



Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

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

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 1063/2024 & CM APPL. 4435/2024 (Interim Relief)  
BETSY GROWTH FINANCE LIMITED .... Petitioner

Through: Dr. Rakesh Gupta, Mr. Somil  
Agarwal & Mr. Dushyant  
Agrawal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE 28 & ORS. .... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 1071/2024 & CM APPL. 4448/2024 (Stay)  
SUBODH KANT SAHAY HUF .... Petitioner

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

versus

INCOME TAX OFFICER WARD 28(1)  
DELHI & ANR.

.... Respondents



Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, Mr. Puneet Singhal, JSCs and Ms. Mahima Garg, Adv.

+ W.P.(C) 1072/2024 & CM APPL. 4451/2024 (Stay)  
SUBODH KANT SAHAY HUF ..... Petitioner

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

versus

INCOME TAX OFFICER WARD 28(1),  
DELHI & ANR. .... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, Mr. Puneet Singhal, JSCs and Ms. Mahima Garg, Adv.

+ W.P.(C) 1073/2024 & CM APPL. 4453/2024 (Stay)  
SUBODH KANT SAHAY HUF ..... Petitioner

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

versus

INCOME TAX OFFICER WARD 28(1)  
DELHI & ANR. .... Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, Mr. Puneet Singhal, JSCs and Ms. Mahima



Garg, Adv.

+ W.P.(C) 1074/2024 & CM APPL. 4455/2024 (Stay)  
SUBODH KANT SAHAY HUF ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 28(1)  
DELHI & ANR. .... Respondents  
Through: Mr. Gaurav Gupta, SSC with Mr.  
Shivendra Singh, Mr. Puneet  
Singhal, JSCs and Ms. Mahima  
Garg, Adv.

+ W.P.(C) 1110/2024 & CM APPL. 4682/2024 (Interim Relief)  
NARESH MITTAL ..... Petitioner  
Through: Mr. Ved Jain, Mr. Nischay  
Kantoor, Ms. Soniya Dodeja &  
Mr. Animesh Tripathi, Advs.

versus

INCOME TAX OFFICER WARD 43(6)  
DELHI & ORS. .... Respondents  
Through: Mr. Sunil Agarwal, SSC with  
Mr. Shivansh B. Pandya, JSC,  
Mr. Utkarsh Tiwari and Mr.  
Amaan Ahmed Khan, Advs.

+ W.P.(C) 1113/2024 & CM APPL. 4688/2024 (Interim Relief)  
NARESH MITTAL ..... Petitioner  
Through: Mr. Ved Jain, Mr. Nischay  
Kantoor, Ms. Soniya Dodeja &  
Mr. Animesh Tripathi, Advs.



versus

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

..... Respondents

Through: Mr. Sunil Agarwal, SSC with  
Mr. Shivansh B. Pandya, JSC &  
Mr. Utkarsh Tiwari, Adv.

+ W.P.(C) 1206/2024 & CM APPL. 5024/2024 (Stay)

MAHABIR PARSHAD GUPTA

..... Petitioner

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

versus

INCOME TAX OFFICER, WARD 43(1),  
DELHI & ANR.

..... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Advs.

+ W.P.(C) 1207/2024 & CM APPL. 5026/2024 (Stay)

MAHABIR PARSHAD GUPTA

..... Petitioner

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

versus

INCOME TAX OFFICER, WARD 43(1),  
DELHI & ANR.

..... Respondents



2024 : DHC : 2629-DE



Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Adv.

+ W.P.(C) 1208/2024 & CM APPL. 5028/2024 (Stay)  
MAHABIR PARSHAD GUPTA ..... Petitioner

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

versus

INCOME TAX OFFICER, WARD 43(1),  
DELHI & ANR. .... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,  
Adv.

+ W.P.(C) 1209/2024 & CM APPL. 5030/2024 (Stay)  
MAHABIR PARSHAD GUPTA ..... Petitioner

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

versus

INCOME TAX OFFICER, WARD 43-1,  
NEW DELHI & ANR. .... Respondents

Through: Mr. Aseem Chawla, SSC with  
Ms. Pratishtha Chaudhary, Mr.  
Aditya Gupta & Ms. Nivedita,



Advs.

+ W.P.(C) 1212/2024 & CM APPL. 5047/2024 (stay)  
TARUN KUMAR SAHA Y HUF ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 43-1, DELHI & ANR.  
..... Respondents

Through: Mr. Sunil Agarwal, SSC with  
Mr. Shivansh B. Pandya, JSC,  
Mr. Utkarsh Tiwari and Mr.  
Amaan Ahmed Khan, Advs.

+ W.P.(C) 1213/2024 & CM APPL. 5049/2024 (Stay)  
TARUN KUMAR SAHAY HUF ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit  
Lalchandani, Ms. Ananya  
Kapoor, Mr. Tarun Chanana, Mr.  
Shivam Yadav, Mr. Vibhu Jain,  
Mr. Utkarsa Kr. Gupta, Mr.  
Amandeep Mehta & Mr. Sanat  
Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 43(1),  
DELHI & ANR. .... Respondents

Through: Mr. Sunil Agarwal, SSC with  
Mr. Shivansh B. Pandya, JSC,  
Mr. Utkarsh Tiwari and Mr.  
Amaan Ahmed Khan, Advs.



2024 : DHC : 2629-DB



+ W.P.(C) 1214/2024 & CM APPL. 5051/2024 (Stay)  
TARUN KUMAR SAHAY HUF ..... Petitioner  
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Ms. Ananya Kapoor, Mr. Tarun Chanana, Mr. Shivam Yadav, Mr. Vibhu Jain, Mr. Utkarsa Kr. Gupta, Mr. Amandeep Mehta & Mr. Sanat Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 43(1),  
DELHI & ANR. .... Respondents  
Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC, Mr. Utkarsh Tiwari and Mr. Amaan Ahmed Khan, Advs.

**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.**

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## A. INTRODUCTION

1. This batch of writ petitions and an Income Tax Appeal filed under Section 260A of the **Income Tax Act, 1961**<sup>1</sup> (ITA 52/2024) assail the initiation of assessment proceedings pursuant to the provisions of Section 153C of the Act. The challenge is firstly raised with the petitioners questioning the identification and computation of the block of six **Assessment Years**<sup>2</sup> immediately preceding the AY relevant to the previous year in which the search was conducted or requisition made. The petitioners additionally impugn the manner in which the respondents have reckoned the years which would be included within the phrase “*relevant assessment year*” as defined by Explanation 1 to Section 153A(1) of the Act.

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<sup>1</sup> Act

<sup>2</sup> AYs



2. The petitioners would contend that insofar as the impugned notices pertaining to AYs' 2010-11, 2011-12, 2012-13 and 2013-14 are concerned, they would be liable to be quashed since they fall beyond the ambit of "*relevant assessment year*" as defined by Explanation 1 to Section 153A when computed from the date of handover of the requisite material to the **Assessing Officer**<sup>3</sup> of the "*other person*", with the said phrase being an allusion to the non-searched entity. The petitioners additionally challenge the impugned notices insofar as they purport to commence assessment/reassessment in respect of AYs' 2010-11 and 2011-12 on the ground that since the period within which the respondents could have reopened or reassessed as per the provisions of the Act as it stood prior to 01 April 2017 had come to an end, therefore the respondents would stand denuded of the jurisdiction of reopening those assessments. The contention essentially was that the enlarged period of ten years which could become subject to reopening or reassessment in cases emanating from a search, introduced by virtue of the amendments made by the **Finance Act, 2017**<sup>4</sup> would not apply to AYs' 2010-11 and 2011-12.

3. For the purposes of facilitating disposal of the present batch of writ petitions, the petitioners have classified individual matters dependent upon the date when the Satisfaction Note, as contemplated under Section 153C of the Act, came to be recorded in the case of the non-searched entity and the same is set out as List I and List II. We deem it appropriate at this juncture to express our gratitude and appreciation for the herculean task undertaken by Mr. Sumit

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<sup>3</sup> AO

<sup>4</sup> 2017 Amending Act



Lalchandani and Ms. Ananya Kapoor, learned counsels for the petitioners, in classifying individual matters into three broad categories and thus enabling the Court to take up this batch for expeditious disposal.

4. List I, which is reproduced hereinbelow, covers cases in which the Satisfaction Note, as drawn by the AO of the “*other person*”, was recorded between 01 April 2021 to 31 March 2022. The list also covers cases where although the Satisfaction Note may not have been available on record, the Section 153C notice was admittedly issued during the said period, namely, 01 April 2021 – 31 March 2022.

<b>Petitioner Name</b>	<b>WP(C)</b>	<b>AY</b>	<b>Date of Satisfaction note by Assessing Officer of the searched person</b>	<b>Date of Satisfaction note by Assessing Officer of the non-searched person</b>	<b>Date of Section 153C notice</b>
Vineeta Gupta	3907/2023	2010-11	Undated (Annexure P 16)	17.03.2022 (Annexure P 13)	23.03.2022 (Annexure P 2)
Alankit Insurance Brokers Ltd.	4784/2023	2010-11	Not Provided	24.12.2021 (Annexure P 5)	28.12.2021 (Annexure P 2)
Alankit Finsec Ltd.	4836/2023	2010-11	Not Provided	24.12.2021 (Annexure P 8)	28.12.2021 (Annexure P 2)
New Wave Realtor Pvt. Ltd.	4944/2023	2010-11	14.02.2022 (Annexure P 16)	25.02.2022 (Annexure P 8)	25.02.2022 (Annexure P 4)
Vineeta Gupta	4993/2023	2011-12	Undated (Annexure P 16)	17.03.2022 (Annexure P 2)	23.03.2022 (Annexure P 3)
Shashi Garg	5128/2023	2010-11	09.03.2022 (Annexure P 7)	15.03.2022 (Annexure P 11)	15.03.2022 (Annexure P 2)
New Wave Realtor Pvt. Ltd.	5150/2023	2011-12	14.02.2022 (Annexure P 14)	25.02.2022 (Annexure P 6)	25.02.2022 (Annexure P 2)
Alankit Insurance	5181/2023	2011-12	Not Provided	24.12.2021 (Annexure P 5)	28.12.2021 (Annexure P 2)



Brokers Ltd.				5)	2)
Alankit Insurance TPA Ltd.	5182/2023	2011-12	Not Provided	24.12.2021 (Annexure P 6)	28.12.2021 (Annexure P 2)
Alka Agarwal	5216/2023	2010-11	Not Provided	24.12.2021 (Annexure P 7)	30.12.2021 (Annexure P 2)
Vikas Surya Developers	5217/2023	2011-12	14.02.2022 (Annexure P 6)	17.02.2022 (Annexure P 6)	22.03.2022 (Annexure P 2)
Alka Agarwal	5224/2023	2011-12	Not Provided	24.12.2021 (Annexure P 8)	30.12.2021 (Annexure P 2)
Alankit Forex India Pvt. Ltd.	5236/2023	2010-11	Not Provided	24.12.2021 (Annexure P 7)	28.12.2021 (Annexure P 2)
Tina Organic Ltd.	5240/2023	2011-12	Not Provided	Not Provided	21.03.2022
Pratishtha Images Ltd.	5249/2023	2011-12	Not Provided	24.12.2021 (Annexure P 7)	28.12.2021 (Annexure P 2)
AlankitFinsec Ltd.	5252/2023	2011-12	Not Provided	24.12.2021 (Annexure P 7)	28.12.2021 (Annexure P 2)
Tina Organic Ltd.	5368/2023	2010-11	Not Provided	Not Provided	21.03.2022
Alankit Forex India Pvt. Ltd.	5370/2023	2011-12	Not Provided	24.12.2021 (Annexure P 6)	28.12.2021 (Annexure P 2)
Pratishtha Images Ltd.	5626/2023	2010-11	Not Provided	24.12.2021 (Annexure P 7)	28.12.2021 (Annexure P 2)
Alankit Insurance TPA Ltd.	5643/2023	2010-11	Not Provided	24.12.2021 (Annexure P 7)	28.12.2021 (Annexure P 2)
Tarun Kumar Sahay	5662/2023	2010-11	20.12.2021 (Annexure P 5)	24.12.2021 (Annexure P 10)	28.12.2021 (Annexure P 2)
Vikas Promoters Pvt. Ltd.	5789/2023	2010-11	Not Provided	17.02.2022 (Annexure P 9)	22.03.2022 (Annexure P 2)
Vinod Maheshwari	5790/2023	2011-12	10.03.2022 (Annexure P 8)	Not Provided	23.03.2022 (Annexure P 2)
Vinod Maheshwari	5794/2023	2010-11	10.03.2022 (Annexure P 7)	Not Provided	23.03.2022 (Annexure P 2)
Shanti Kumar Aggarwal HUF	6160/2023	2011-12	Not Provided	28.02.2022 (Annexure P 6)	02.05.2022 (Annexure P 2)
Vikas Promoters Pvt.	6260/2023	2011-12	Not Provided	17.02.2022 (Annexure P 6)	22.03.2022 (Annexure P 2)



Ltd.				9)	2)
Tarun Kumar Sahay	6284/2023	2011-12	20.12.2021 (Annexure P 8)	24.12.2021 (Annexure P 9)	28.12.2021 (Annexure P 2)
Sakshi Agarwal	6673/2023	2012-13	Not Provided	24.12.2021 (Annexure P 6)	30.12.2021 (Annexure P 2)
Vineeta Gupta	6962/2023	2012-13	Undated (Annexure P 10)	17.03.2022 (Annexure P 6)	23.03.2022 (Annexure P 2)
Pratishtha Images Ltd.	7157/2023	2012-13	Not Provided	24.12.2021 (Annexure P 6)	28.12.2021 (Annexure P 2)
Alka Agarwal	7272/2023	2012-13	Not Provided	24.12.2021 (Annexure P 5)	30.12.2021 (Annexure P 2)
Alankit Insurance TPA Limited	7279/2023	2012-13	Not Provided	24.12.2021 (Annexure P 6)	28.12.2021 (Annexure P 2)
Alankit Insurance Brokers Ltd.	7281/2023	2012-13	Not Provided	24.12.2021 (Annexure P 5)	28.12.2021 (Annexure P 2)
AlankitFinsec Ltd.	7283/2023	2012-13	Not Provided	24.12.2021 (Annexure P 5)	28.12.2021 (Annexure P 2)
Shanti Kumar Agarwal HUF	7374/2023	2012-13	Not Provided	28.02.2022 (Annexure P 5)	02.05.2022 (Annexure P 2)
Alankit Forex India Ltd.	7401/2023	2012-13	Not Provided	24.12.2021 (Annexure P 7)	28.12.2021 (Annexure P 2)
Vivek Garg	7821/2023	2011-12	Not Provided	11.03.2022 (Annexure P 6)	05.05.2022 (Annexure P 2)
Vivek Garg	7822/2023	2010-11	Not Provided	11.03.2022 (Annexure P 6)	05.05.2022 (Annexure P 2)
New Wave Realtors Pvt. Ltd.	9124/2023	2012-13	14.02.2022 (Annexure P 15)	25.02.2021 (Annexure P 7)	25.02.2022 (Annexure P 2)

5. List II, which is reproduced hereinbelow, relates to – (i) those cases where the Satisfaction Note by the AO of the “*other person*” was recorded between 01 April 2022 to 31 March 2023 and (ii) where the Satisfaction Note by the AO of the non-searched entity was recorded between 01 April 2023 to 31 March 2024:-



<b>Petitioner Name</b>	<b>WP(C)</b>	<b>AY</b>	<b>Date of Satisfaction note by Assessing Officer of the searched person</b>	<b>Date of Satisfaction note by Assessing Officer of the non-searched person</b>	<b>Date of Section 153C notice</b>
Ashwani Kumar Gupta	3714/2023	2010-11	16.03.2022 (Supplied with Counter Affidavit)	22.06.2022 (Annexure A-5)	23.06.2022 (Annexure A-2)
Shanti Kumar Aggarwal through Legal Heir Ankit Agarwal	457/2024	2012-13	10.05.2022 (Annexure P 14)	Not Provided	29.06.2022 (Annexure P 9)
Shanti Kumar Aggarwal through Legal Heir Ankit Agarwal	463/2024	2013-14	10.05.2022 (Annexure P 14)	Not Provided	29.06.2022 (Annexure P 9)
Sunjog Engineering Pvt. Ltd.	476/2024	2010-11	24.06.2022 (Annexure P 9)	08.08.2022 (Annexure P 13)	24.08.2022 (Annexure P 5)
Shanti Kumar Aggarwal through Legal Heir Ankit Agarwal	477/2024	2011-12	10.05.2022 (Annexure P 14)	Not Provided	29.06.2022 (Annexure P 9)
Saksham Investors Service Pvt. Ltd.	622/2024	2012-13	24.06.2022 (Annexure P-10)	10.08.2022 (Annexure P-17)	10.08.2022 (Annexure P-7)
Pack Plast - India- Private Limited	623/2024	2011-12	11.05.2022 (Annexure P-9)	01.09.2022 (Annexure P-10)	01.09.2022 (Annexure P-6)
Saksham Commodities Limited	627/2024	2012-13	24.06.2022 (Annexure P-10)	10.08.2022 (Annexure P-17)	10.08.2022 (Annexure P-7)
Pack Plast - India- Private Limited	630/2024	2012-13	11.05.2022 (Annexure P-9)	01.09.2022 (Annexure P-10)	01.09.2022 (Annexure P-6)
Pack Plast - India- Private Limited	639/2024	2013-14	11.05.2022 (Annexure P-9)	01.09.2022 (Annexure P-10)	01.09.2022 (Annexure P-6)
Pack Plast - India- Private Limited	697/2024	2010-11	11.05.2022 (Annexure P-9)	01.09.2022 (Annexure P-10)	01.09.2022 (Annexure P-6)
Sunoj	704/2024	2011-	24.06.2022	08.08.2022	24.08.2022



Engineering Pvt. Ltd.		12	(Annexure P-9)	(Annexure P-13)	(Annexure P-5)
Jagmohan Kejriwal	794/2024	2012-13	20.06.2022 (Annexure P-9)	Not Provided	30.06.2022 (Annexure P-6)
Jagmohan Kejriwal	795/2024	2011-12	20.06.2022 (Annexure P-9)	Not Provided	30.06.2022 (Annexure P-6)
Jagmohan Kejriwal	824/2024	2010-11	20.06.2022 (Annexure P-9)	Not Provided	30.06.2022 (Annexure P-6)
Jagmohan Kejriwal	826/2024	2013-14	(20.06.2022) (Annexure P-9)	Not Provided	30.06.2022 (Annexure P-6)
Subodh Kant Sahay (HUF)	1071/2024	2011-12	24.06.2022 (Annexure P-9)	Not Provided	09.03.2023 (Annexure P-6)
Subodh Kant Sahay (HUF)	1072/2024	2010-11	24.06.2022 (Annexure P-9)	Not Provided	09.03.2023 (Annexure P-6)
Subodh Kant Sahay (HUF)	1073/2024	2012-13	24.06.2022 (Annexure P-9)	Not Provided	09.03.2023 (Annexure P-6)
Subodh Kant Sahay (HUF)	1074/2024	2013-14	24.06.2022 (Annexure P-9)	Not Provided	09.03.2023 (Annexure P-6)
Mahavir Prasad Gupta	1206/2024	2011-12	24.06.2022 (Annexure P-13)	Not Provided	26.08.2022 (Annexure P-6)
Mahavir Prasad Gupta	1207/2024	2012-13	24.06.2022 (Annexure P-13)	Not Provided	26.08.2022 (Annexure P-6)
Mahavir Prasad Gupta	1208/2024	2010-11	24.06.2022 (Annexure P-13)	Not Provided	26.08.2022 (Annexure P-6)
Mahavir Prasad Gupta	1209/2024	2013-14	24.06.2022 (Annexure P-13)	Not Provided	26.08.2022 (Annexure P-6)
Tarun Kumar Sahay (HUF)	1212/2024	2013-14	01.06.2022 (Annexure P-14)	Not Provided	26.08.2022 (Annexure P-6)
Tarun Kumar Sahay (HUF)	1213/2024	2010-11	01.06.2022 (Annexure P-14)	Not Provided	26.08.2022 (Annexure P-6)
Tarun Kumar Sahay (HUF)	1214/2024	2011-12	01.06.2022 (Annexure P-14)	Not Provided	26.08.2022 (Annexure P-6)
Vinod Kumar Garg	5130/2023	2010-11	24.12.2021 (as recorded in Annexure P-8)	16.02.2023 (Annexure P-8)	19.02.2023 (Annexure P-2)
Vinod Kumar Garg	5215/2023	2011-12	24.12.2021 (as recorded in	16.02.2023 (Annexure P-	19.02.2023 (Annexure



			Annexure P-8)	7)	P-2)
Mohan Kumar Garg	5976/2023	2011-12	Not provided	15.03.2023 (Annexure P-4)	16.03.2023 (Annexure P-2)
Mohan Kumar Garg	5977/2023	2010-11	Not provided	15.03.2023 (Annexure P-4)	16.03.2023 (Annexure P-2)
Kapareva Development Private Limited	335/2024	2011-12	13.06.2022 (Annexure A-5)	Undated (Annexure A-5)	29.09.2022 (Annexure A-2)
Kapareva Development Private Limited	334/2024	2012-13	13.06.2022 (Annexure A-5)	Undated (Annexure A-5)	29.09.2022 (Annexure A-2)
Kapareva Development Private Limited	333/2024	2013-14	13.06.2022 (Annexure A-5)	Undated (Annexure A-5)	29.09.2022 (Annexure A-2)
Vikas Wahi	733/2024	2010-11	24.06.2022 (Annexure A-5)	Undated (Annexure A-5)	10.11.2022 (Annexure -2)
Vikas Wahi	734/2024	2011-12	24.06.2022 (Annexure -5)	Undated (Annexure A-5)	10.11.2022 (Annexure A-2)
Vikas Wahi	731/2024	2012-13	24.06.2022 (Annexure A-4)	Undated (Annexure A-4)	10.11.2022 (Annexure A-2)
Vikas Wahi	728/2024	2013-14	24.06.2022 (Annexure A-6)	Undated (Annexure A-6)	10.11.2022 (Annexure A-2)
Indo Greenfuel Private Limited	1049/2024	2010-11	24.06.2022 (Annexure A-5)	22.08.2022 (Annexure A-8)	28.09.2022 (Annexure A-2)
Indo Greenfuel Private Limited	1050/2024	2011-12	24.06.2022 (Annexure A-5)	22.08.2022 (Annexure A-8)	28.09.2022 (Annexure A-2)
Betsy Growth Finance Limited	1063/2024	2010-11	12.05.2022 (Annexure A-11)	Undated (Annexure A-11)	30.06.2022 (Annexure A-2)
Mamta Aggarwal	829/2024	2010-11	24.06.2022 (Annexure A-6)	Undated (Annexure A-9)	18.08.2022 (Annexure A-1)
Mamta Aggarwal	861/2024	2011-12	24.06.2022 (Annexure A-7)	Undated (Annexure A-10)	18.08.2022 (Annexure A-2)
Mamta	873/2024	2012-	24.06.2022	Undated	18.08.2022



Aggarwal		13	(Annexure A-7)	(Annexure A-10)	(Annexure A-2)
Ashutosh Aggarwal	991/2024	2010-11	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Ashutosh Aggarwal	1025/2024	2011-12	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Ashutosh Aggarwal	1018/2024	2012-13	24.06.2022 (Annexure A-6)	31.05.2023 (Annexure A-6)	12.06.2023 (Annexure A-2)
Naresh Mittal	1113/2024	2011-12	24.06.2022 (Annexure P-9)	08.08.2022 (Annexure P-5)	22.08.2022 (Annexure P-2)
Naresh Mittal	1110/2024	2012-13	24.06.2022 (Annexure P-9)	08.08.2022 (Annexure P-5)	22.08.2022 (Annexure P-2)

6. Yet another ground of challenge which was taken in some writ petitions was founded on the Fourth Proviso to Section 153A of the Act and which prescribes certain pre-conditions which must be satisfied before assessment or reassessment action can be commenced in respect of the “*relevant assessment year*”. One of the prerequisites for commencement of action as constructed in terms of clause (a) of the Fourth Proviso, and which constitutes a sine qua non for issuance of notice, is the revelation of income which may have escaped assessment represented in the form of an asset amounting to or likely to amount to INR 50 lakhs or more in the “*relevant assessment year*” or in aggregate over the relevant AYs’. The petitioners argued that in the following cases, the asset which came to be identified from the books of account, documents or other evidence gathered in the course of the search was less than INR 50 lakhs and consequently the impugned notices in these cases are liable to be quashed on this ground additionally. The following matters, which for the sake of convenience shall be referred to as List III, are stated to fall in this category:



Petitioner Name	WP(C)	AY	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
Susheel Jain	694/2024	2016-17	09.06.2022 (Annexure P-8)	No Satisfaction Note	16.08.2022 (Annexure P-2)
Anuj Sharma	400/2024	2010-11	20.06.2022 Annexure P-10 (Colly)	10.02.2023 Annexure P-13 (Colly)	20.02.2023 Annexure P-2
Anuj Sharma	384/2024	2011-12	20.06.2022 Annexure P-9 (Colly)	10.02.2023 Annexure P-12 (Colly)	20.02.2023 Annexure P-1
Anuj Sharma	383/2024	2012-13	20.06.2022 Annexure P-10 (Colly)	10.02.2023 Annexure P-13 (Colly)	20.02.2023 Annexure P-2

## B. BROAD FACTUAL MATRIX

7. For the sake of convenience, we propose to notice the facts as they obtain in WP(C) 5217/2023. The petitioner submitted a **Return of Income**<sup>5</sup> on 30 September 2011 for AY 2011-12. On 18 October 2019, a search and seizure operation is stated to have been carried out in respect of the **Alankit Group of Companies**<sup>6</sup>. On 22 March 2022, the petitioner was served with a notice purporting to be under Section 153C of the Act requiring it to submit a true and correct return of its total income for AY 2011-12. The aforesaid notice was followed by a communication dated 22 December 2022 under Section 142(1) requiring the petitioner to produce accounts and documents as per the annexure appended thereto. A follow-up notice under Section 142(1) of the Act was thereafter issued on 01 February 2023. It is alleged by the respondents that since the petitioner did not respond to the aforesaid

<sup>5</sup> ROI

<sup>6</sup> Alankit Group



communications, they were constrained to issue notices under Section 144 of the Act and which were dated 22 February 2023 and 03 March 2023. In response to the aforesaid, the petitioner submitted its response on 15 March 2023.

8. In order to appreciate the challenge which stands raised, we deem it apposite to extract the Satisfaction Note which came to be recorded by the AO of the writ petitioner. The Satisfaction Note which is dated 17 February 2022 is extracted hereinbelow:

“Name of the Assessee: M/s Vikas Surya Developers Pvt. Ltd.  
PAN AADCV3771F  
Date of Search 18.10.2019  
Date of receipt of documents 17.02.2022

**Satisfaction note for issuing notice u/s 153C of the Income Tax Act 1961 :**

In this case, an information has been received from DCIT, Central Circle-28, intimating that

A search and seizure operation was carried out in the Alankit Group of cases on 18.10.2019. Analysis of the documents seized contain information pertaining to M/s Vikas Surya Developers Pvt. Ltd. have been found. The relevant details are as under:

2. Ledger of Vinod Garg has 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. 4 Tri Nagar Delhi (Path: F:\SKGR A-32\SUNIL KUMAR GUPTA liP LAPTOP\EXTRACTEDDATA\Tally\[root].I\LocalDisk\ANARKALI\BACKUP\DATA24\DATA24).

3. Based on the detailed analysis of Ledger of Sh. Vinod Garg, it came to light that the unaccounted cash transactions have been made to the extent as summarily quantified below:

Particular	FY	Sum of Unaccounted Cash payments made to Sh. Alok K Agarwal	Sum of Unaccounted Cash received from Sh. Alok K Agarwal
	2009-10	3,25,45,285	2,86,662



<b>VINOD GARG</b>	2010-11	4,02,50,800	1,55,11,420
	2011-12	7,00,000	
	2012-13	1,00,00,000	5,37,10,550
	2013-14	41,75,400	2, 70,00,000
	2014-15	3,15,00,000	3,73,82,604
	2015-16	2,35,45,902	52,83,417
	2016-17	2,56,81,000	
	2017-18	7,85,00,000	
	2018-19	89,09,000	
	2019-20	94,54,000	

4. The transactions entered by beneficiary with shell entity controlled by Alok K Agarwal, against unaccounted cash or otherwise to take accommodation entries, are as tabulated below:

Name of beneficiary	F.Y.	Transaction done with	Amount debited to beneficiary	Amount credited to beneficiary
Vikas Surya Developers Pvt. Ltd. (PAN: AADCV3771F)	2010-11	Cash	500	
		NCPL	4,95,00,000	2,15,00,000
	2013-14	Cash	1,20,00,000	
		DCPL		50,00,000
		NCPL		2,80,00,000

5. Accordingly, I am satisfied that these documents recovered during the course of search and seizure operation mentioned above, have a bearing on the determination of total income of M/s Vikas Surya Pvt. Ltd. for the A.Ys 2010-11 to A.Y. 2020-21.

Hence, notice u/s 153C of the Income Tax Act, 1961 as per provisions of section 153C(2) is being issued for A.Ys 2010-11 to A.Y. 2020-21.”

9. On culmination of the proceedings so initiated, an assessment order came to be framed on 25 March 2023. The aforesaid order



discloses the following facts. The AO refers to various ledgers which were obtained in the course of the subject search as well as digital data retrieved from the laptop belonging to one Mr. Sunil Kumar Gupta. It proceeds to refer to the statements of various individuals recorded in the course of that search and ultimately comes to the following conclusions:

“11. Thus, Sh. Sunil Kumar Gupta has explained entire modus operandi by which unaccounted cash is received and utilized to provide accommodation entry. He has also explained in detail the manner in which he records these transactions in his Hand written diary/Excel Sheets/Tally books.

12. The transactions entered into by the assessee with various entities/companies controlled by Alok K Agarwal against unaccounted cash or otherwise to take accommodation entries, are as tabulated below:

Name of beneficiary	F.Y.	Transaction done with	Amount debited to beneficiary	Amount credited to beneficiary	Nature of Transactions
<b>Vikas Surya Developer Pvt. Ltd.</b>	2010-11	Cash	500		Loans and Advances
		NCPL	4,95,00,000	2,15,00,000	

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21. In view of the facts on the basis of detailed discussion above and incriminating documents found during the course of search in Alankit Group and statement of Sh. Sunil Kumar Gupta recorded on oath during the search and considering the principles laid down by the jurisdictional authorities from time to time, it is evident that incriminating documents seized from the premises of Sh. Sunil Kumar Gupta are related to the assessee and the contents of such documents are duly corroborated and considered as true. Hence, the additions made on the basis of incriminating material are valid and as per the provisions of statute.

22. Accordingly, in view of the above discussion, it is evident that the assessee has undertaken bogus/sham transactions wherein amount of Rs. 4,95,00,000/- is received from Newwave Commercials Pvt. Ltd by the assessee during the relevant previous year in lieu of cash as discussed above. Thus, an amount



of Rs. 4,95,00,000/- is hereby added to the total income of the assessee for the relevant period as per the provisions of the Section 68 of the I.T. Act, 1961 for A. Y. 2011-12 relevant to F.Y. 2010-11.

**(Addition u/s 68: Rs. 4,95,00,000/-)**

22.2 Further, the assessee has concealed its particulars of income, accordingly, penalty proceedings u/s 271(1)(c) of the Act are separately initiated.”

10. On the basis of the aforesaid, the AO proceeded to make additions under Sections 68 and 69C of the Act. The writ petition itself came to be filed on 22 April 2023 and when the matter first came up on 25 April 2023, the Court took note of similar challenges having been already entertained and provided that no precipitative action would be taken till further orders of the Court. Since submissions were also addressed in some detail on WP(C) 3907/2023, we deem it appropriate to notice the salient facts pertaining to that assessee. The writ petitioner had submitted a ROI pertaining to AY 2010-11 on 31 July 2010. Proceedings under Section 153C of the Act came to be initiated pursuant to the search of Alankit Group which was conducted on 18 October 2019. The petitioner came to be served with a notice under Section 153C on 23 March 2022. In response to the aforesaid notice, the petitioner submitted its ROI on 21 April 2022. The assessment is thereafter stated to have been centralized pursuant to orders made under Section 127 of the Act. The Satisfaction Note dated 17 March 2022 as penned by the AO in the case of the petitioner is reproduced hereinbelow:

**“Satisfaction note for initiating proceedings u/s 153C of the Income Tax Act 1961 in the case of Smt. Vineeta Gupta (PAN-AEIPG1608L), by AO of other than the searched person**



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 Smt. Vineeta Gupta have been found.

2. Ledgers related to Sh. Vinod Gupta and Ms. Loveleen 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. 4 Tri Nagar Delhi (**Path: F:\SKGR A-32\SUNIL KUMAR GUPTA HP LAPTOP EXTRACTED DATA\Tally\[root].1\Local Disk ANARKALI\BACKUP\DATA24\DATA24**).

**There are four ledgers related to Sh. Vinod Gupta**

- **VINOD GUPTA**
- **VINOD GUPTA- New Account**
- **VINOD GUPTA- Old Account**

**Vinod Gupta (Anarkali)**

3. The transactions entered into by various beneficiaries with various shell entities controlled by Alok K Agarwal, against unaccounted cash or otherwise to take accommodation entries, are as tabulated below:

Name of beneficiary	F.Y.	Transaction done with	Amount debited to beneficiary	Amount credited to beneficiary	
Vineeta Gupta	2009-10	AFL	40,00,000	20,00,000	
		Cash	600	1,40,00,500	
	2010-11	Cash	10,000	1,15,00,000	
		DCPL	11,00,000		
		NCPL	94,00,000		
		PIPL	1,50,00,000	1,50,00,000	
		Cash	2,00,00,000		
	2011-12	AFL			49,50,000
		DCPL			83,00,000
		NCPL			67,50,000
		PIPL	52,50,000	67,50,000	
	2012-13	Cash	17,95,000		
		NCPL			26,50,000
2013-14	AFL	5,00,000	60,00,000		
	Alok K. Agarwal	19,00,000	19,00,000		
	DCPL	9,00,000			
Vineeta Gupta EFL	2012-13	Cash		96,00,000	
		EFL	2,14,24,575		



	2013-14	AAL	69,19,221	
Vineeta Gupta	2009-10	AFL		1,63,00,000
		Cash	2,37,00,000	
		EFL	45,15,700	
Vineeta Gupta in Newwave	2012-13	Cash	35,00,000	
Vineeta Gupta	2009-10	Eurogold		74,00,000

4. The said satisfaction note prepared by the AO of the person searched has been kept on record. I have also examined the above documents and the contents noted/written therein. After examination of these documents, I am also satisfied that these documents belong to the assessee. In view of the same, I am further satisfied that it is fit case for initiating proceedings u/s 153C of the Income Tax Act 1961 for the A.Ys 2010-11 to A.Y.2020-21.

Accordingly, notices u/s 153C is issued as per provisions of the I.T. Act 1961.”

11. The petitioner is stated to have submitted objections challenging the assumption of jurisdiction under Section 153C on 04 February 2023. Those objections came to be negated by an order dated 13 February 2023. We deem it apposite to extract the following from the aforesaid order:

“3. It can be seen that search in this case was conducted on 18.10.2019 which means six assessment years immediately preceding the assessment year relevant to the previous year can be opened u/s 153C of the Act for assessment/reassessment. In the extant case, relevant previous year would be F.Y. 2019-20 relevant to A.Y. 2020-21. In view of the provisions of section 153C of the Income-tax Act, 1961, the relevant six years involved in this case are A.Ys. 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20. Proceeding for the A.Y. 2020-21 is opened u/s 153C r.w.s 143(3) of the Income-tax Act, 1961.

4. Further, incriminating seized evidences suggest that income chargeable to tax pertaining to four years preceding the 6 year period has escaped assessment in this case, hence, the case has been rightly opened u/s 153C of the Act for the A.Y. 2011-12 to 2020-21. It is submitted that on the basis of seized material confronted to the assessee as well, it is revealed that the assessee



was found to be involved in unaccounted Cash Transactions, receiving and providing accommodation entries, which requires proper verification. Satisfaction recorded in the case of the assessee is fairly detailed and is backed by supporting evidences in form of ledgers containing both bank and cash entries which prove the veracity of the said ledgers, which form an integral part of the satisfaction note drafted by the AO of the searched party and the jurisdictional AO of the assessee.

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In the present case, the live link between the material provided by the Investigation Wing/AO and the reasons for belief that income has escaped assessment has been sufficiently demonstrated.

In view of the above facts, it is clear that the before opening the case u/s 153C of the Act, provision of section 153C have been duly complied with.

**In view of the above, there is no merit and substance in your submissions. The objections filed by you are disposed off as above and you are requested to comply with the notices issued u/s 153C for A.Ys. 2010-11 to 2020-21 and notices to be issued from time to time issued by this office.**

1. For the purposes of finalization of your assessment proceedings u/s 153C of the Income Tax Act, 1961 (herein after read as the 'Act') for the concerned assessment year, you were issued notice u/s 142(1) of the Act for the year under consideration. In reply of which you have filed your submission, after going through that, it is found that you have not filed the satisfactory reply in respect of the below mentioned transactions:

Name of beneficiary	F.Y.	Transaction done with	Amount debited to beneficiary	Amount credited to beneficiary
Vineeta Gupta	2009-10	AFL	40,00,000	20,00,000
		Cash	600	1,40,00,500
	2010-11	Cash	10,000	1,15,00,000
		DCPL	11,00,000	
		NCPL	94,00,000	
		PIPL	1,50,00,000	1,50,00,000
		Cash	2,00,00,000	
	2011-12	AFL		49,50,000
		DCPL		83,00,000
		NCPL		67,50,000
		PIPL	52,50,000	67,50,000
	2012-13	Cash	17,95,000	
		NCPL		26,50,000
			AFL	5,00,000



	2013-14	Alok K. Agarwal	19,00,000	19,00,000
		DCPL	9,00,000	
Vineeta Gupta EFL	2012-13	Cash		96,00,000
		EFL	2,14,24,575	
	2013-14	AAL	69,19,221	
Vineeta Gupta	2009-10	AFL		1,63,00,000
		Cash	2,37,00,000	
		EFL	45,15,700	
Vineeta Gupta in Newwave	2012-13	Cash	35,00,000	
Vineeta Gupta	2009-10	Eurogold		74,00,000

3. From perusal of the reply filed, it is noticed that you have not filed any satisfactory reply in respect of the amounts found credited and debited against Vineeta Gupta in the afore-discussed ledger. Accordingly, you are required to show cause as to why not addition in respect of the above amounts be made as per the relevant provisions of the Act. You are also required to show cause as to why not commission @ 1.5% paid to the facilitator for arranging these transaction be added to your total income u/s 69C of the Act, being amount paid through your unaccounted sources income.

**In absence of satisfactory response / explanation, you are show caused as to why the amounts as recorded in the ledgers as above may not be added to your total income as per the relevant provisions of the Income Tax Act, 1961. You are further show caused as to why penalty as per the relevant provisions of the Act may not be initiated against you.**

**In case of failure to comply with this notice satisfactorily within the limitation date of this notice, assessment will be finalized based on incriminating material and information available on record, further, penalty of Rs. 10,000/- will be imposed upon you under section 272A(1)(d)/ 271(1)(b) of the Income-tax Act, 1961.”**

12. The writ petition thereafter came to be instituted on 27 March 2023. On the first date of consideration and more particularly on 28 March 2023, an interim order was passed to the effect that while the AO would have liberty to continue the reassessment proceedings, any



adverse orders if passed against the petitioner, would not be given effect to until further orders of the Court.

13. For the sake of completeness, we also propose to take note of the salient facts pertaining to two cases which have been placed in List III. In WP(C) 400/2024, a reading of the Satisfaction Note would appear to indicate that multiple transactions pertaining to **Financial Year**<sup>7</sup> 2012-13 and 2014-15 were noticed from the documents and material gathered in the course of the search. Dealing with the aforesaid, the AO of the petitioner/ assessee observed as under:

“3. As per satisfaction note dated 20.06.2022, during the course of search and seizure operation, some incriminating documents were found and seized marked as Annexure A-32 as SUNIL KUMAR GUPTA HP LAPTOP. The ledgers of Shri Vijay Kumar obtained from the laptop of Shri Sunil Kumar Gupta have been found and seized from the residence of Sh. Sunil Kumar Gupta at 3584/4 Narang Colony, Gali No. 4, Tri Nagar, Delhi, during the course of search u/s 132 of the Income-tax Act, 1961 carried in the case of Sh. Alok Kumar Agarwal, Sh. Ankit Agarwal, M/s Alankit Limited and M/s Alankit Assignments Limited wherein it has been found that the transactions entered into by various beneficiaries with various shell entities controlled by Alok K Agarwal, against the unaccounted cash or otherwise to take accommodation entries, are tabulated below:

Name of beneficiary	F.Y.	Transactions done with	Amount debited to beneficiary	Amount credited to beneficiary
Anul Sharma	2012-13	DCPL	25,00,000/-	32,96,549
		NCPL	15,00,000/-	
	2014-15	CASH	40,00,000/-	
		DCPL		25,00,000
		NCPL		15,00,000
	2014-15	Sunil Bhala	64,33,562/-	
2012-13	Cash		21,00,000	

4. As AO of the person other than the searched person, I have carefully perused the above referred satisfaction note and other related documents. Hence, I am satisfied that the above

<sup>7</sup> FY



material/documents pertain to Shri Anuj Sharma (PAN: BEBPS2370N) and the entries appearing therein have a bearing on the determination of the income of Shri Anuj Sharma (PAN: BEBPS2370N).

5. In view of the above, I am satisfied that it is a fit case for initiating proceeding u/s 153C r.w.s. 153A of the I.T. Act 1961, for the period relevant to the A.Ys. 2010-11 to 2020-21. Accordingly, notice u/s 153C r.w.s. 153A of the Act, for the A.Ys. 2010-11 to 2020-21 are being issued.”

14. Similarly, in WP(C) 384/2024, the AO of the petitioner in its Satisfaction Note dated 10 February 2023 stated:

“3. As per satisfaction note dated 20.06.2022, during the course of search and seizure operation, some incriminating documents were found and seized marked as Annexure A-32 as SUNIL KUMAR GUPTA HP LAPTOP. The ledgers of Shri Vijay Kumar obtained from the laptop of Shri Sunil Kumar Gupta have been found and seized from the residence of Sh. Sunil Kumar Gupta at 3584/4 Narang Colony, Gali No. 4, Tri Nagar, Delhi, during the course of search u/s 132 of the Income-tax Act, 1961 carried in the case of Sh. Alok Kumar Agarwal, Sh. Ankit Agarwal, M/s Alankit Limited and M/s Alankit Assignments Limited wherein it has been found that the transactions entered into by various beneficiaries with various shell entities controlled by Alok K Agarwal, against the unaccounted cash or otherwise to take accommodation entries, are tabulated below:

Name of beneficiary	F.Y.	Transactions done with	Amount debited to beneficiary	Amount credited to beneficiary
Anul Sharma	2012-13	DCPL	25,00,000/-	32,96,549
		NCPL	15,00,000/-	
	2014-15	CASH	40,00,000/-	
		DCPL		25,00,000
		NCPL		15,00,000
	2014-15	Sunil Bhala	64,33,562/-	
2012-13	Cash		21,00,000	

4. As AO of the person other than the searched person, I have carefully perused the above referred satisfaction note and other related documents. Hence, I am satisfied that the above material/documents pertain to Shri Anuj Sharma (PAN: BEBPS2370N) and the entries appearing therein have a bearing on the determination of the income of Shri Anuj Sharma (PAN: BEBPS2370N).



5. In view of the above, I am satisfied that it is a fit case for initiating proceeding u/s 153C r.w.s. 153A of the I.T. Act 1961, for the period relevant to the A.Ys. 2010-11 to 2020-21. Accordingly, notice u/s 153C r.w.s. 153A of the Act, for the A.Ys. 2010-11 to 2020-21 are being issued.”

15. As would be manifest from the tabular statement which finds place in the Satisfaction Note, although the individual transactions referable to the FYs’ in question fall below the threshold of INR 50 lakhs, when viewed cumulatively, they would meet the pre-condition comprised in clause (a) of the Fourth Proviso to Section 153A of the Act. The consequential question which arises is whether the limit of INR 50 lakhs which is spoken of must be satisfied in each of the “*relevant assessment year*” or could the prescriptions of clause (a) be said to be satisfied if that monetary precondition is met on a cumulative calculation of the total asset value pertaining to the years opened up for assessment or reassessment as the case may be.

### C. SUBMISSIONS OF THE PETITIONERS

16. Leading submissions on behalf of the writ petitioners, Mr. Kapoor submitted that undisputedly the timelines prescribed and stipulated for the purposes of reopening or reassessment had expired on 31 March 2016 and 31 March 2017 and thus before the promulgation of the 2017 Amending Act. It was submitted that consequently the additional four years which came to form part of the block by virtue of the definition of the phrase “*relevant assessment year*” would not apply to expired or lapsed assessments. In order to elaborate upon that submission, Mr. Kapoor referred to the following chart:

<b>Chart A</b>	<b>This chart is prepared on the presumption that date of search is/ was</b>		
	<b>(I)</b>	<b>(II)</b>	<b>(III)</b>



	<b>Between 01.04.2015 – 31.03.2016 i.e. before insertion of 2017 amendment</b>	<b>Between 01.04.2016 – 31.03.2017 i.e. before insertion of 2017 amendment</b>	<b>On or after 01.04.2017 i.e., after the insertion of the 2017 amendment</b>
Search year	AY 2016-17	AY 2017-18	AY 2018-19
First year	AY 2015-16	AY 2016-17	AY 2017-18
Second year	AY 2014-15	AY 2015-16	AY 2016-17
Third year	AY 2013-14	AY 2014-15	AY 2015-16
Fourth Year	AY 2012-13	AY 2013-14	AY 2014-15
Fifth year	AY 2011-12	AY 2012-13	AY 2013-14
Sixth year	AY 2010-11	AY 2011-12	AY 2012-13
<b>Barred by time limitation</b>		<b>AY 2010-11</b>	<b>AY 2011-12 AY 2010-11</b>

17. According to learned counsel, if the date of search fell between 01 April 2015 to 31 March 2016, the period which could have formed the subject matter of Section 153C would be six AYs' immediately preceding the AY relevant to the previous year of search. This would, according to learned counsel, extend up to AY 2010-11 at best and consequently any search conducted after 31 March 2016 would not empower the respondents to assume jurisdiction over AY 2010-11. This since, according to learned counsel, the aforementioned AY would fall beyond the six year period. Proceeding along those lines, Mr. Kapoor submitted that in the case of a search which may have been conducted on or between 01 April 2016 to 31 March 2017, the AYs' for which assessment could have been reopened would extend up to AY 2011-12 and not beyond. Therefore, the power to assume jurisdiction for AY 2011-12 would not arise in case a search was conducted after 31 March 2017, i.e., after the 2017 Amending Act, since the aforementioned AY had attained finality before the insertion of the amended provisions. The submission in essence proceeded on the basis of the time frames for reopening which existed in the statute prior to 2017 and those expiring



before the amendments came to be introduced in that year. In all such cases, according to Mr. Kapoor, the introduction of the concept of a ten year block period would not empower the respondents to reassess or reopen those years which had acquired a state of repose. In support of his argument of closure, Mr. Kapoor placed reliance upon the judgment rendered by the Court in **Brahm Dutt vs. ACIT**<sup>8</sup>. We deem it apposite to extract the following passages from that decision:

“13. In K. M. Sharma's case (supra) the assessee's land was acquired under the Land Acquisition Act, 1894 and an award was passed in 1967 granting compensation in favour of the assessee. Thereafter, the Additional District Judge by judgment dated May 20, 1980, held the assessee to be entitled to 1/32nd share of the compensation and the assessee was granted total compensation of Rs. 1,18,810 in the year 1981. Subsequently, by another judgment dated July 31, 1991, the assessee was awarded a sum of Rs. 1,10,20,624, which was received by it between October 15, 1992 and May 25, 1993. The said amount comprised of principal compensation as well as interest up to May 18, 1992. As land acquired was agricultural land, principal amount was not chargeable to tax ; however, interest amounting to Rs. 76,84,829 was chargeable on year to year basis. The assessee claimed that proceedings till assessment year 1982-83 had already attained finality and therefore, filed a letter requesting the Assessing Officer to initiate proceedings for subsequent assessment years for bringing to tax interest component relatable to the said assessment years. The assessee was, however, issued notices under section 148 of the Act for fifteen assessment years, viz., assessment years 1968-69 to 1971-72 and assessment years 1981-82 to 1992-93 which were challenged on the ground of limitation. This court declined to exercise jurisdiction ; on appeal, the Supreme Court held that the provision regulating period of limitation ought to receive strict construction. The Supreme Court held that the law of limitation was intended to give certainty and finality to legal proceedings and therefore, proceedings, which had attained finality under the existing law due to bar of limitation, could not be held to be open for revival unless the amended provision was clearly given retrospective operation so as to allow upsetting of proceedings, which had already been completed and attained finality.....

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<sup>8</sup> 2018 SCC Online Del 12847



14. The ratio of K. M Sharma and S. S. Gadgil, in the opinion of this court covers the facts of this case. Reassessment for 1998-99 could not be reopened beyond March 31, 2005 in terms of provisions of section 149 of the Act as applicable at the relevant time. The petitioner's return for assessment year 1998-99 became barred by limitation on March 31, 2005. The question of revival of the period of limitation for reopening assessment for the assessment year 1998-99 by taking recourse to the subsequent amendment made in section 149 of the Act in the year 2012, i. e., more than 8 years after expiration of limitation on March 31, 2005, has been dealt with by the Supreme Court in K. M. Sharma (supra).

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16. It has been said that "the Government in all its actions is bound by rules fixed and announced beforehand—rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances, and to plan one's affairs on the basis of this knowledge" (Ref. F. A. Hayek, "Road to Serfdom", 1944). In this case, the interpretation proposed by the Revenue has the potential of arming its authorities to re- open settled matters, in respect of issues where the citizen could genuinely be sanguine and had no obligation of the kind which the Revenue seeks to impose by the present amendment. All the more significant, is the fact that in the absence of a clear indication, every statute is presumed to be prospective. The Revenue had sought to contend that the amendment (to section 149) is merely procedural and no one has a vested right to procedure ; and that procedural amendments can be given effect any time, even in ongoing proceedings.

17. This court is of the opinion that there is no merit in the Revenue's contention. In Sri Prithvi Cotton Mills v. Broach Borough Municipality [1970] AIR 1970 SC 192, on examining the validity of the retrospective amendment of a statute in the light of article 19(1)(g) of the Constitution of India, i.e., a fundamental right to practice any profession, or to carry on any occupation, trade or business. The court said :

"In testing whether a retrospective imposition of a tax operates so harshly as to violate the fundamental rights under article 19(1)(g), the factors considered relevant include the context in which retroactivity was contemplated such as whether the law is one of validation of taxing statute struck-down by courts for certain defects ; the period of such retroactivity, and the decree and extent of any unforeseen or unforeseeable financial burden imposed for the past period, etc."



18. In *Govinddas v. ITO* [1976] 103 ITR 123 (SC) ; AIR 1977 SC 552 the Supreme Court held that section 171(6) of the Income-tax Act was prospective and inapplicable for any assessment year prior to April 1, 1962, the date on which the Act came into force and observed that (page 132 of 103 ITR) :

"Now it is a well settled rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. The general rule as stated by Halsbury in Vol. 36 of the Laws of England (3rd Edn.) and reiterated in several decisions of this court as well as English courts is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or of evidence are 'prima facie prospective' and retrospective operation should not be given to a statute so as to affect, alter or destroy an existing right or create a new liability or obligation unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only."

In *CIT v. Scindia Steam Navigation Co. Ltd.* [1961] 42 ITR 589 (SC) ; AIR 1961 SC 1633, it was held that as the liability to pay tax is computed according to the law in force at the beginning of the assessment year, i.e., the first day of April, any change in law upsetting the position and imposing tax liability after that date, even if made during the currency of the assessment year, unless specifically made retrospective, does not apply to the assessment for that year. These principles were reiterated in *CIT v. Vatika Township (P.) Ltd.* [2014] 367 ITR 466 (SC)."

18. Mr. Kapoor in this respect also drew our attention to the decision of the Supreme Court in **S.S. Gadgil vs. Lal & Co.**<sup>9</sup> and **K.M. Sharma v. Income-Tax Officer, Ward 13(7), New Delhi**<sup>10</sup>. The relevant passages from the judgment in *S.S. Gadgil*, are reproduced hereinbelow:

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<sup>9</sup> (1964) 8 SCR 72

<sup>10</sup> (2002) 4 SCC 339



“9. A proceeding for assessment is not a suit for adjudication of a civil dispute. That an income tax proceeding is in the nature of a judicial proceeding between contesting parties, is a matter which is not capable of even a plausible argument. The Income Tax Authorities who have power to assess and recover tax are not acting as judges deciding a litigation between the citizen and the State : they are administrative authorities whose proceedings are regulated by statute, but whose function is to estimate the income of the taxpayer and to assess him to tax on the basis of that estimate. Tax legislation necessitates the setting up of machinery to ascertain the taxable income, and to assess tax on the income, but that does not impress the proceeding with the character of an action between the citizen and the State : Commissioner of Inland Revenue v. Sneath [17 TC 149, 164] ; and Shell Co. of Australia Ltd. v. Federal Commissioner of Taxation [(1931) AC 275] .

10. Again the period prescribed by Section 34 for assessment is not a period of limitation. The section in terms imposes a fetter upon the power of the Income Tax Officer to bring to tax escaped income. It prescribes different periods in different classes of cases for enforcement of the right of the State to recover tax. It was observed by this Court in Ahmedabad Manufacturing and Calico Printing Co. Ltd. v. S.C. Mehta, Income Tax Officer [48 ITR (SC Section) 154, 171] :

“It must be remembered that if the Income Tax Act prescribes a period during which tax due in any particular assessment year may be assessed, then on the expiry of that period the department cannot make an assessment. Where no period is prescribed the assessment can be completed at any time but once completed it is final. Once a final assessment has been made, it can only be reopened to rectify a mistake apparent from the record (Section 35) or to reassess where there has been an escapement of assessment of income for one reason or another (Section 34). Both these sections which enable reopening of back assessments provided their own periods of time for action but all these periods of time, whether for the first assessment or for rectification, or for reassessment, merely create a bar when that time passed against the machinery set up by the Income Tax Act for the assessment and levy of the tax. They do not create an exemption in favour of the assessee or grant an absolution on the expiry of the period. The liability is not enforceable but the tax may again become exigible if the bar is removed and the taxpayer is brought within the jurisdiction of the said machinery by reason of a new power. This is, of course, subject to the condition, either expressly or by clear implication. If the language of the law has that clear meaning, it must be given that effect and



where the language expressly so declares or clearly implies it, the retrospective operation is not controlled by the commencement clause.”

**11.** Counsel for the Commissioner sought to derive some support from *Income Tax Officer, Companies District I, Calcutta v. Calcutta Discount Co. Ltd.* [23 ITR 471] in which Chakravarti, C.J., dealing with the effect of the Income Tax and Business Profits Tax (Amendment) Act, 1948, observed:

“The plain effect of the substitution of the new Section 34 with effect from 30th March, 1948 is that from that date the Income Tax Act is to be read as including the new section as a part thereof and if it is to be so read, the further effect of the express language of the section is that so far as cases coming within clause (a) of sub-section (1) are concerned all assessment years ending within eight years from 30th March, 1948 and from subsequent dates, are within its purview and it will apply to them, provided the notice contemplated is given within such eight years. What is not within the purview of the section is an assessment year which ended before eight years from 30th March, 1948.”

But it may be recalled that the amending Act of 1948 with which the Court was concerned in *Calcutta Discount Co. case* [23 ITR 471] came into force on September 8, 1948, but Section 1(2) prescribed that the amendment in Section 34 of the Income Tax Act, 1922, shall be deemed to have come into force on March 30, 1948, and the period under the unamended section within which notice could be issued under Section 34(3) against the assessee company ended on March 31, 1951. Before that date the amending Act came into operation, and at no time had the right to reassess become barred.

12. In considering whether the amended statute applies, the question is one of interpretation i.e. to ascertain whether it was the intention of the legislature to deprive a taxpayer of the plea that action for assessment or reassessment could not be commenced, on the ground that before the amending Act became effective, it was barred. Therefore the view that even when the right to assess or reassess has lapsed on account of the expiry of the period of limitation prescribed under the earlier statute, the Income Tax Officer can exercise his powers to assess or reassess under the amending statute which gives an extended period of limitation, was not accepted in *Calcutta Discount Co. case* [23 ITR 471].

**13.** As we have already pointed out, the right to commence a proceeding for assessment against the assessee as an agent of a non-resident party under the Income Tax Act before it was



amended, ended on March 31, 1956. It is true that under the amending Act by Section 18 of the Finance Act, 1956, authority was conferred upon the Income Tax Officer to assess a person as an agent of a foreign party under Section 43 within two years from the end of the year of assessment. But authority of the Income Tax Officer under the Act before it was amended by the Finance Act of 1956 having already come to an end, the amending provision will not assist him to commence a proceeding even though at the date when he issued the notice it is within the period provided by that amending Act. This will be so, notwithstanding the fact that there has been no determinable point of time between the expiry of the time provided under the old Act and the commencement of the amending Act. The legislature has given to Section 18 of the Finance Act, 1956, only a limited retrospective operation i.e. up to April 1, 1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned, nor to authorise the Income Tax Officer to commence proceedings which before the new Act came into force had by the expiry of the period provided, become barred.”

19. In *K.M. Sharma*, the Supreme Court while reiterating the view which was taken in *S.S. Gadgil*, had held as under:

“14. A fiscal statute, more particularly, on a provision such as the present one regulating period of limitation must receive strict construction. Law of limitation is intended to give certainty and finality to legal proceedings and to avoid exposure to risk of litigation to a litigant for an indefinite period on future unforeseen events. Proceedings, which have attained finality under existing law due to bar of limitation cannot be held to be open for revival unless the amended provision is clearly given retrospective operation so as to allow upsetting of proceedings, which had already been concluded and attained finality. The amendment to sub-section (1) of Section 150 is not expressed to be retrospective and, therefore, has to be held as only prospective. The amendment made to sub-section (1) of Section 150 which intends to lift the embargo of period of limitation under Section 149 to enable the authorities to reopen assessments not only on the basis of orders passed in the proceedings under the IT Act but also on order of a court in any proceedings under any law has to be applied prospectively on or after 1-4-1989 when the said amendment was introduced to sub-section (1). The provision in sub-section (1) therefore can have only prospective operation to assessments,



which have not become final due to expiry of period of limitation prescribed for assessment under Section 149 of the Act.

15. To hold that the amendment to sub-section (1) would enable the authorities to reopen assessments, which had already attained finality due to bar of limitation prescribed under Section 149 of the Act as applicable prior to 1-4-1989, would amount to giving sub-section (1) a retrospective operation, which is neither expressly nor impliedly intended by the amended sub-section.

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20. This Court took similar view in the case of *S.S. Gadgil* [(1964) 53 ITR 231 : AIR 1965 SC 171] in somewhat comparable situation arising from the retrospective operation given to Section 34-I of the Income Tax Act, 1922 as amended with retrospective effect from 1-4-1956 by the Finance Act of 1956. In the case of *S.S. Gadgil* [(1964) 53 ITR 231 : AIR 1965 SC 171] admittedly under clause (iii) of the proviso to Section 34-I of the Indian Income Tax Act, 1922, as it then stood, a notice of assessment or reassessment could not be issued against a person deemed to be an agent of a non-resident under Section 43, after the expiry of one year from the end of the year of assessment. The section was amended by Section 18 of the Finance Act, 1956, extending this period of limitation to two years from the end of the assessment year. The amendment was given retrospective effect from 1-4-1956. On 12-3-1957, the Income Tax Officer issued a notice calling upon the assessee to show cause why, in respect of Assessment Year 1954-55, the assessee should not be treated as an agent under Section 43 in respect of certain non-residents. The case of the assessee, inter alia, was that the proposed action was barred by limitation as the right to commence proceedings of assessment against the assessee as an agent of non-resident for Assessment Year 1954-55 ended on 31-3-1956, under the Act before it was amended in 1956. This Court in the case of *S.S. Gadgil* [(1964) 53 ITR 231 : AIR 1965 SC 171] accepted the contention of the assessee and held as under: (ITR p. 240)

“The legislature has given to Section 18 of the Finance Act, 1956, only a limited retrospective operation i.e. up to 1-4-1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned, nor to authorise the Income Tax Officer to commence proceedings which before the new Act came into force had by the expiry of the period provided become barred.”



21. On a proper construction of the provisions of Section 150(1) and the effect of its operation from 1-4-1989, we are clearly of the opinion that the provisions cannot be given retrospective effect prior to 1-4-1989 for assessments which have already become final due to bar of limitation prior to 1-4-1989. Taxing provision imposing a liability is governed by normal presumption that it is not retrospective and settled principle of law is that the law to be applied is that which is in force in the assessment year unless otherwise provided expressly or by necessary implication. Even a procedural provision cannot in the absence of clear contrary intendment expressed therein be given greater retrospectivity than is expressly mentioned so as to enable the authorities to affect finality of tax assessments or to open up liabilities, which have become barred by lapse of time. Our conclusion, therefore, is that sub-section (1) of Section 150, as amended with effect from 1-4-1989, does not enable the authorities to reopen assessments, which have become final due to bar of limitation prior to 1-4-1989 and this position is applicable equally to reassessments proposed on the basis of orders passed under the Act or under any other law.”

20. The petitioners also sought to draw sustenance from a decision rendered by a Division Bench of our Court in **C.B. Richards Ellis Mauritius Ltd v. Assistant Director of Income Tax & Ors**<sup>11</sup>. Justice Khanna (as his Lordship then was) speaking for the Bench had enunciated the legal position in the following words:

“12. Law of limitation does not create any right in favour of a person or define or create any cause of action, but simply prescribes that the remedy can be exercised or availed of by or within the period stated and not thereafter. Subsequently, the right continues to exist but cannot be enforced. The liability to tax under the Act is created by the charging Section read with the computation provisions. The assessment proceedings crystallize the said liability so that it can be enforced and the tax if short paid or unpaid can be collected. If this difference between liability to tax and the procedure prescribed under the Act for computation of the liability (i.e. the procedure of assessment), is kept in mind, there would be no difficulty in understanding and appreciating the fallacy and the error in the primary argument raised by the Revenue. It is a settled position that liability to tax as a levy is normally determined as per statute as it exists on the first day assessment year, but this is not the issue or question in the present

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<sup>11</sup> 2012 SCC Online Del 3085



case. The issue or question in the present case relates to assessment i.e. initiation of re-assessment proceedings and whether the time/limitation for initiation of the re-assessment proceedings specified by the Finance Act, 2001 is applicable. We are not determining/deciding the liability to tax but have to adjudicate and decide whether the re-assessment notice is beyond the time period stipulated. This is a matter/issue of procedure i.e. the time period in which the assessment or re-assessment proceedings can be initiated. Thus, the time period/limitation period prescribed on the date of issue of notice will apply. In our opinion, the answer is clear and has to be in affirmative, i.e. in favour of the assessee.

13. This question is not debatable or *res integra* and was examined and answered with lucid and clear reasoning in the opinion expressed by Hidayatullah, J. on behalf of himself and Raghubar Dayal, J. in *S.C. Prashar, Income Tax Officer v. Vasantsen Dwarkadas*, AIR 1963 SC 1356; 1963 (49) ITR 1 (SC). The relevant portion reads: -

"93. .. . If the 1948 Amendment could be treated as enabling the Income Tax Officer to take action at any point of time in respect of back assessment years within eight years of March 30, 1948 then such cases were within his power to tax. We have such a case here in CA No. 509 of 1958 where the notice was issued in 1949 to the lady whose husband had remitted Rs 9180 to her from Bangkok in the year relative to Assessment Year 1942-43. That lady was assessable in respect of this sum under Section 4(2) of the Income Tax Act. She did not file a return. If the case stood governed by the 1939 Amendment the period applicable would have been four years if she had not concealed the particulars of the income. She had of course not deliberately furnished inaccurate particulars thereof. If the case was governed by the 1948 Amendment she would come within the eight-year rule because she had failed to furnish a return. Now, we do not think that we can treat the different periods indicated under Section 34 as periods of limitation, the expiry of which grant prescriptive title to defaulting tax-payers. It may be said that an assessment once made is final and conclusive except for the provisions of Sections 34 and 35 but it is quite a different matter to say that a "vested right" arises in the assessee. On the expiry of the period the assessments, if any, may also become final and conclusive but only so long as the law is not altered retrospectively. Under the scheme of the Income Tax Act a liability to pay tax is incurred when according to the Finance Act in force the amount of



income, profits or gains is above the exempted. That liability to the State is independent of any consideration of time and, in the absence of any provision restricting action by a time limit, it can be enforced at any time. What the law does is to prevent harassment of assessee to the end of time by prescribing a limit of time for its own officers to take action. This limit of time is binding upon the officers, but the liability under the charging section can only be said to be unenforceable after the expiry of the period under the law as it stands. In other words, though the liability to pay tax remains it cannot be enforced by the officers administering the tax laws. If the disability is removed or according to a new law a new time limit is created retrospectively, there is no reason why the liability should not be treated as still enforceable. The law does not deal with concluded claims or their revival but with the enforcement of a liability to the State which though existing remained to be enforced ...

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95. ... It says that the limit of time mentioned in Section 34 is removed in certain cases that is to say, action can be taken at any time in these cases. In our judgment, each case of a notice must be judged according to the law existing on the date the notice was issued or served, as the law may require. So long as the notice where the notice is in question, and the assessment, where the assessment is in question, are within the time limited by the law, as it exists when the respective actions are taken, the actions cannot be questioned provided the law is clearly retrospective. The only case in which no further action can be taken is one in which action was not taken under the old law within the period prescribed by that law and which is not also within the period mentioned in the new law if its operation is retrospective. All other cases are covered by the law in force at the time action is taken. It is from these viewpoints that these appeals, in our opinion, should be judged."

**14.** In the said case, question of validity of notice had arisen because of repeated/frequent changes made in the period in which reassessment proceedings could be initiated under Section 34 of the income Tax Act, 1922 during the years 1939-59. Revalidation Act had also been enacted. This ratio was followed and applied in *CIT v. Sardar Lakhmir Singh* (1963) 49 ITR 70 (SC), *CIT, Madras v. Janabha Muhammad Hussain Nachiar Ammal*, AIR 1963 SC 1401 and in *ITO, A-Ward, Sitapur v. Murlidhar*



*Bhagwandas, Lakhimpur Kheri*, (1964) 52 ITR 335 (SC).

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16. Going back a little in point of time in *J.P. Jani, ITO v. Induprasad Devshankar Bhatt*, (1969) 72 ITR 595 (SC), it was held that the Income Tax Officer cannot issue notice under Section 148 of the Act, where the right to re-open an assessment was barred under the Income Tax Act, 1922 on the date when the 1961 Act came into force. This is a separate issue and aspect which need not be examined and dealt with in this case. The issue/question in *Induprasad Devshankar* (supra) was what would be the legal position in case the period prescribed for initiation of the re-assessment proceedings is enhanced or extended under the new statute. We are not required to and do not examine or consider this aspect/question.”

21. Mr. Kapoor reminded us of the well-settled position in law of every statute being prima facie viewed as prospective, unless a contrary intention appears either from the express language employed by the statute or by necessary implication. According to learned counsel, unless the words of a statute with sufficient clarity indicate an intent of the Legislature to impact existing or perfected rights, it would always be deemed to be prospective. In support of the aforesaid proposition, Mr. Kapoor relied upon the following passages as appearing in the decision of the Supreme Court in **CIT vs. Vatika Township (P) Ltd.**<sup>12</sup>

“28. Of the various rules guiding how a legislation has to be interpreted, one established rule is that unless a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. Law passed today cannot apply to the events of the past. If we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bedrock that every human being is entitled to arrange his affairs by relying on the existing law and should not find that his plans have been retrospectively upset. This principle of law is known as *lex prospicit non respicit* : law looks forward

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<sup>12</sup> (2015) 1 SCC 1



not backward. As was observed in *Phillips v. Eyre* [(1870) LR 6 QB 1] , a retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated when introduced for the first time to deal with future acts ought not to change the character of past transactions carried on upon the faith of the then existing law.

**29.** The obvious basis of the principle against retrospectivity is the principle of “fairness”, which must be the basis of every legal rule as was observed in *L'Office Cherifien des Phosphates v. Yamashita-Shinnihon Steamship Co. Ltd.* [(1994) 1 AC 486 : (1994) 2 WLR 39 : (1994) 1 All ER 20 (HL)] Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later.

**30.** We would also like to point out, for the sake of completeness, that where a benefit is conferred by a legislation, the rule against a retrospective construction is different. If a legislation confers a benefit on some persons but without inflicting a corresponding detriment on some other person or on the public generally, and where to confer such benefit appears to have been the legislators' object, then the presumption would be that such a legislation, giving it a purposive construction, would warrant it to be given a retrospective effect. This exactly is the justification to treat procedural provisions as retrospective. In *Govt. of India v. Indian Tobacco Assn.* [(2005) 7 SCC 396] , the doctrine of fairness was held to be relevant factor to construe a statute conferring a benefit, in the context of it to be given a retrospective operation. The same doctrine of fairness, to hold that a statute was retrospective in nature, was applied in *Vijay v. State of Maharashtra* [(2006) 6 SCC 289]. It was held that where a law is enacted for the benefit of community as a whole, even in the absence of a provision the statute may be held to be retrospective in nature. However, we are (*sic not*) confronted with any such situation here.

**31.** In such cases, retrospectivity is attached to benefit the persons in contradistinction to the provision imposing some burden or liability where the presumption attaches towards prospectivity. In the instant case, the proviso added to Section 113 of the Act is not



beneficial to the assessee. On the contrary, it is a provision which is onerous to the assessee. Therefore, in a case like this, we have to proceed with the normal rule of presumption against retrospective operation. Thus, the rule against retrospective operation is a fundamental rule of law that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication. Dogmatically framed, the rule is no more than a presumption, and thus could be displaced by outweighing factors.”

In view of the above, Mr. Kapoor submitted that the respondents would have no jurisdiction to issue a notice or frame an assessment for AYs’ 2010-11 and 2011-12, since the period for reopening of those assessments had lapsed before the 2017 Amending Act came into force. According to learned counsel, since those assessments had attained finality, the amended Section 153C could not be resorted to and that conclusiveness effaced.

22. Mr. Kapoor then proceeded to the principal provision itself and submitted that by virtue of the First Proviso to Section 153C(1), the relevant AYs’ would have to be reckoned with reference to the date on which documents pertaining to the non-searched person are received by the AO of that person. According to learned counsel, the aforesaid position is manifest from a plain reading of that Proviso and which bids us to recognize the date of receiving of the books of account, documents or assets by that AO as being the date relevant for the purposes of the Second Proviso to Section 153A(1). According to learned counsel, the aforesaid position in law can no longer be doubted bearing in mind the judgments rendered by the Supreme Court in **CIT vs Jasjit Singh**<sup>13</sup> and **Income Tax Officer vs Vikram Sujitkumar**

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<sup>13</sup> 2023 SCC Online SC 1265



**Bhatia & Ors**<sup>14</sup>. Mr. Kapoor invited our attention to the following passages from the decision in *Jasjit Singh*:

“8. In *SSP Aviation* (supra) the High Court inter alia reasoned as follows:—

*“14. Now there can be a situation when during the search conducted on one person under Section 132, some documents or valuable assets or books of account belonging to some other person, in whose case the search is not conducted, may be found. In such case, the Assessing Officer has to first be satisfied under Section 153C, which provides for the assessment of income of any other person, i.e., any other person who is not covered by the search, that the books of account or other valuable article or document belongs to the other person (person other than the one searched). He shall hand over the valuable article or books of account or document to the Assessing Officer having jurisdiction over the other person. Thereafter, the Assessing Officer having jurisdiction over the other person has to proceed against him and issue notice to that person in order to assess or reassess the income of such other person in the manner contemplated by the provisions of Section 153A. Now a question may arise as to the applicability of the second proviso to Section 153A in the case of the other person, in order to examine the question of pending proceedings which have to abate. In the case of the searched person, the date with reference to which the proceedings for assessment or reassessment of any assessment year within the period of the six assessment years shall abate, is the date of initiation of the search under Section 132 or the requisition under Section 132A. For instance, in the present case, with reference to the Puri Group of Companies, such date will be 5.1.2009. However, in the case of the other person, which in the present case is the petitioner herein, such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of the other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date.”*

9. It is evident on a plain interpretation of Section 153C(1) that the Parliamentary intent to enact the proviso was to cater not merely to the question of abatement but also with regard to the

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<sup>14</sup> 2023 SCC Online SC 370



date from which the six year period was to be reckoned, in respect of which the returns were to be filed by the third party (whose premises are not searched and in respect of whom the specific provision under Section 153-C was enacted. The revenue argued that the proviso [to Section 153(c)(1)] is confined in its application to the question of abatement.

10. This Court is of the opinion that the revenue's argument is insubstantial and without merit. It is quite plausible that without the kind of interpretation which SSP Aviation adopted, the A.O. seized of the materials - of the search party, under Section 132 - would take his own time to forward the papers and materials belonging to the third party, to the concerned A.O. In that event if the date would virtually "relate back" as is sought to be contended by the revenue, (to the date of the seizure), the prejudice caused to the third party, who would be drawn into proceedings as it were unwittingly (and in many cases have no concern with it at all), is dis-proportionate. For instance, if the papers are in fact assigned under Section 153-C after a period of four years, the third party assessee's prejudice is writ large as it would have to virtually preserve the records for at latest 10 years which is not the requirement in law. Such disastrous and harsh consequences cannot be attributed to Parliament. On the other hand, a plain reading of Section 153-C supports the interpretation which this Court adopts."

23. Mr. Kapoor then highlighted the following observations as appearing in *Vikram Sujitkumar Bhatia*:

"41. Thus, as per the proviso to Section 153C as inserted vide Finance Act, 2005, and the effect of the said proviso is that it creates a deeming fiction wherein any reference made to the date of initiation of search is deemed to be a reference made to the date when the Assessing Officer of the non-searched person receives the books of account or documents or assets seized etc. Thus, in the present case, even though the search under Section 132 was initiated prior to the amendment to Section 153C w.e.f. 01.06.2015, the books of account or documents or assets were seized by the Assessing Officer of the non-searched person only on 25.04.2017, which is subsequent to the amendment, therefore, when the notice under Section 153C was issued on 04.05.2018, the provision of the law existing as on that date, i.e., the amended Section 153C shall be applicable."



24. According to learned counsel, our Court in **CIT vs RRJ Securities Ltd.**<sup>15</sup> had itself analysed the import of the First Proviso to Section 153C(1) in identical terms as would be evident from the following passages of that judgment:

“14. The proviso to section 153C(1) of the Act expressly indicates that reference to the date of initiation of search for the purposes of the second proviso to section 153A shall be construed as a reference to the date on which valuable assets or documents are received by the Assessing Officer of an assessee (other than a searched person). Thus, by virtue of the second proviso to section 153A of the Act, the assessments/reassessments that were pending on the date of receiving such assets, books of account or documents would abate.

**15.** The controversy in this regard is no longer res integra. A co-ordinate Bench of this court in *SSP Aviation Ltd. v. Deputy CIT* (2012) 346 ITR 177 (Delhi) has held that (page 188):

"In the case of the searched person, the date with reference to which proceedings for assessment or reassessment of any assessment year within a period of six assessment years shall abate, is the date of initiation of the search under section 132 or requisition under section 132A. .. However, in the case of other person. .. such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date"

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**24.** As discussed hereinbefore, in terms of the proviso to section 153C of the Act, a reference to the date of the search under the second proviso to section 153A of the Act has to be construed as the date of handing over of assets/documents belonging to the assessee (being the person other than the one searched) to the Assessing Officer having jurisdiction to assess the said assessee. Further proceedings, by virtue of section 153C(1) of the Act would have to be in accordance with section 153A of the Act and the reference to the date of search would have to be construed as the reference to the date of recording of satisfaction. It would

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<sup>15</sup> 2015 SCC Online Del 13085



follow that the six assessment years for which assessments/reassessments could be made under section 153C of the Act would also have to be construed with reference to the date of handing over of assets/documents to the Assessing Officer of the assessee. In this case, it would be the date of the recording of satisfaction under section 153C of the Act, i.e., September 8, 2010. In this view, the assessments made in respect of the assessment years 2003-04 and 2004-05 would be beyond the period of six assessment years as reckoned with reference to the date of recording of satisfaction by the Assessing Officer of the searched person. It is contended by the Revenue that the relevant six assessment years would be the assessment years prior to the assessment year relevant to the previous year in which the search was conducted. If this interpretation as canvassed by the Revenue is accepted, it would mean that whereas in case of a person searched, assessments in relation to six previous years preceding the year in which the search takes place can be reopened but in case of any other person, who is not searched but his assets are seized from the searched person, the period for which the assessments could be reopened would be much beyond the period of six years. This is so because the date of handing over of assets/documents of a person, other than the searched person, to the Assessing Officer would be subsequent to the date of the search. This, in our view, would be contrary to the scheme of section 153C(1) of the Act, which construes the date of receipt of assets and documents by the Assessing Officer of the assessee (other than one searched) as the date of the search on the assessee. The rationale appears to be that whereas in the case of a searched person the Assessing Officer of the searched person assumes possession of the seized assets/documents on search of the assessee ; the seized assets/documents belonging to a person other than a searched person come into possession of the Assessing Officer of that person only after the Assessing Officer of the searched person is satisfied that the assets/documents do not belong to the searched person. Thus, the date on which the Assessing Officer of the person other than the one searched assumes the possession of the seized assets would be the relevant date for applying the provisions of section 153A of the Act. We, therefore, accept the contention that in any view of the matter, assessment for the assessment year 2003-04 and the assessment year 2004-05 were outside the scope of section 153C of the Act and the Assessing Officer had no jurisdiction to make an assessment of the assessee's income for that year."

25. According to learned counsel, the aforesaid position becomes further evident when one views the Memorandum to Finance Bill 2005



which while inserting the First Proviso with retrospective effect from 01 June 2003 had explained the intent of that provision in the following terms:

“MEMORANDUM EXPLAINING THE PROVISIONS  
RELATING TO DIRECT TAXES

“(i) Prescribing the rates of income-tax.....

Rationalisation of procedure for assessment in cases of search and seizure. ....

It is proposed to amend the said section so as to provide that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having the jurisdiction over such other person...”

26. It was submitted that the respondents have committed a manifest illegality while calculating the ten year block period with reference to the date of search even though the First Proviso bids them to compute that period from the date of handing over of material to the jurisdictional AO of the “*other person*”. Mr. Kapoor further pointed out that although the respondents had called upon this Court to reconsider the correctness of the view taken in *RRJ Securities*, the same came to be negated in **PCIT vs R.L. Allied Industries**<sup>16</sup> as would be evident from the following passages of that decision:

“5. It is sought to be urged by the learned counsel for the Revenue that the decision of this Court in *SSP Aviation Ltd. v. DCIT* (2012) 346 ITR 177 and the subsequent decision in *CIT v. RRJ Securities Ltd.* (2015) 62 taxmann.com 391(Del.) perhaps did not discuss the first proviso to Section 153B (1) of the Act. The further contention is that in any event the effect of a combined reading of the first proviso to Section 153B (1) and the first proviso to Section 153C (1) of the Act would only be that regular assessments which may have been pending for any of the six AYs

<sup>16</sup> Order dated 28 January 2016 in ITA 370/2015 and connected matters



preceding the year of search would abate but that the period for completion of assessments would begin to run from the later date i.e. the date of handing over of the accounts and documents etc to the AO of the 'other person'. In effect, learned counsel for the Revenue doubted the correctness of the decisions in SSP Aviation (supra) and RRJ Securities(supra) and sought a reference of the case to a larger Bench.

6. Having considered the relevant provisions and the decisions referred to, this Court is not persuaded to accept the above plea. The decision of this Court in RRJ Securities (supra), apart from discussing the provisions in question also adverted to the earlier decision in SSP Aviation(supra) and concluded as under....

7. This Court reiterates the view already expressed by it in RRJ Securities (supra) when it comes to reopening of assessments of a person other than the searched person, in terms of the first proviso to Section 153C(1). In such event the date of search would get postponed to the date of receipt of the books of accounts or documents seized by the AO having jurisdiction over such 'other person' and the six earlier AYs would have to be reckoned with reference to such postponed date of search. The first proviso to Section 153 B (1) does not support the case sought to be canvassed by the Revenue. It refers to and acknowledges that the date of search qua the 'other person', in terms of the first proviso to Section 153 C (1), gets postponed to the date on which documents are handed over to the AO of the 'other person'. Consequently, the question of referring the case to a larger Bench does not arise."

27. Proceeding then to the statutory position which came into effect post the 2017 Amending Act, Mr. Kapoor submitted that the provisions in question construct separate and independent principles for the purposes of identifying the six preceding AYs' or the block of ten AYs' as defined by the phrase "*relevant assessment year*". It was in this regard and at the outset submitted that the judgment of the Court in *RRJ Securities* would continue to constitute good law and would remain unimpacted by the amendments which came to be introduced by virtue of the 2017 Amending Act. According to learned counsel, the primary objective of the amendments was to expand the reach of Section 153A beyond six AYs' in cases where evidence or material may have been



gathered in the course of a search. It was submitted that since the expression “*relevant assessment year*” came to be introduced in Section 153A, corresponding amendments were necessarily required to be made to Section 153C. According to learned counsel, notwithstanding those amendments, the statutory position would remain unaltered since the six years would have to be calculated with reference to the year in which the requisition was made by the jurisdictional AO of the “*other person*”. Mr. Kapoor submitted that the amendments made to Section 153C were merely aimed at aligning that provision with Section 153A. The fact that these amendments introduced in Section 153C were consequential would be evident from the Memorandum to the Finance Bill 2017, the Notes on Clauses as well as the Explanatory Notes to the provisions of the 2017 Amending Act. Relevant extracts of the Memorandum to the Finance Bill, 2017 is reproduced hereinbelow:

**“Memorandum to the Finance Bill, 2017**

It is however proposed that the amended provisions of section 153A shall apply where search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

It is also proposed to consequentially amend section 153C to provide a reference to the relevant assessment year or years as referred to in section 153A.

These amendments will take effect from 1st April, 2017.”

28. The relevant extracts of the Notes on Clauses to the Finance Bill, 2017 are extracted hereunder:

**“Notes on Clauses**

“...Clause 61 of the Bill seeks to amend section 153C of the Income-tax Act, 1961 relating to assessment of income of any other person. It is proposed to amend the second proviso to sub-section of the said section so as to provide a reference to the relevant assessment year as referred to in sub-section ( 1 } of section 153A.



The proposed amendment is consequential to the amendment to section 153A of the Income-tax Act and shall apply in respect of search conducted or requisition made on or after the 1st day of April, 2017.

This amendment will take effect from 1st April, 2017. ...”

29. The relevant portions of the Explanatory Notes to the provisions of the 2017 Amending Act, as set out in Circular No. 2/2018 are set out hereinbelow:

**“Explanatory Notes to the provisions of the Finance Act, 2017**

**“80. Rationalisation of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C**

... **80.4** However, in order to protect the interest of the revenue in cases where tangible evidence(s) are found during a search or seizure operation (including section 132A cases) and the same is represented in the form of undisclosed investment in any asset, section 153A of the Income-tax Act relating to search assessments has been amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided up to the tenth assessment year if-

- (i) the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years(falling beyond the sixth year);
- (ii) such income escaping assessment is represented in the form of asset;
- (iii) the income escaping assessment or part thereof relates to such year or years.

**80.5 Applicability:** The amended provisions of section 153A of the Income-tax Act shall apply where search under section 132 of the Income-tax Act is initiated or requisition under section 132A of the Income-tax Act is made on or after the 1st day of April 2017.

**80.6** Section 153C of the Income-tax Act has also been amended to provide a reference to the relevant assessment year or years as referred to in section 153A of the Income-tax Act.

**80.7 Applicability:** These amendments take effect from 1st April, 2017.”



30. According to Mr. Kapoor, notwithstanding the expansion of the assessment period to ten years, the Legislature consciously did not amend the commencement point for the purposes of computation and which stood embodied in the Proviso to Section 153C(1). This, according to Mr. Kapoor, is unassailable evidence of the position with respect to computation of the block period remaining unaltered. Mr. Kapoor then submitted that the calculation of the six and ten year block is governed by distinct principles. It was submitted that for the purposes of identification of the six AYs' the statute uses the expression ".....immediately preceding the assessment year relevant to the previous year in which search is conducted...". Mr. Kapoor pointed that in contradistinction to the above, the commencement point for calculating ten AYs' is ordained by the statute to be "from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made". Viewed in light of the above, according to Mr. Kapoor, while the AO stands empowered to re-open the year of search and nine immediately preceding AYs', it cannot legally travel beyond that period. Mr. Kapoor submitted that the computation of ten years has to be made by way of a backward calculation beginning from the end of the AY relevant to the previous year in which the search is conducted. This, since the statute itself commands that period to be reckoned "from the end of the assessment year" as opposed to the expression 'immediately preceding' which governs the identification of six AYs'. According to learned counsel, the statute while laying down the principles for computation of six AYs' mandates that the search year be excluded and consequently liable to be treated as the 'zero' year. In support of his submission with respect to the computation of the six and ten year block, Mr. Kapoor



placed strong reliance on the following observations as appearing in the decision of the Madras High Court in **A.R. Safiullah vs ACIT**<sup>17</sup>.

“9. Explanation-I is clear as to the manner of computation of the ten assessment years. it clearly and firmly fixes the starting point. It is the end of the assessment year relevant to the previous year in which search is conducted or requisition is made. There cannot be any doubt that since search was made in this case on 10.04.2018, the assessment year is 2019-20. The end of the assessment year 2019-20 is 31.03.2020. The computation of ten years has to run backwards from the said date i.e., 31.03.2020. The first year will of course be the search assessment year itself. In that event, the ten assessment years will be as follows :

1 <sup>st</sup> Year	2019-20
2 <sup>nd</sup> Year	2018-19
3 <sup>rd</sup> Year	2017-18
4 <sup>th</sup> Year	2016-17
5 <sup>th</sup> Year	2015-16
6 <sup>th</sup> Year	2014-15
7 <sup>th</sup> Year	2013-14
8 <sup>th</sup> Year	2012-13
9 <sup>th</sup> Year	2011-12
10 <sup>th</sup> Year	2010-11

The case on hand pertains to AY 2009-10. It is obviously beyond the ten year outer ceiling limit prescribed by the statute. The terminal point is the tenth year calculated from the end of the assessment year relevant to the previous year in which search is conducted. The long arm of the law can go up to this terminal point and not one day beyond. When the statute is clear and admits of no ambiguity, it has to be strictly construed and there is no scope for looking to the explanatory notes appended to statute or circular issued by the department.

10. In the case on hand, the statute has prescribed one mode of computing the six years and another mode for computing the ten years. Section 153A(1)(b) states that the assessing officer shall assess or reassess the total income of six years immediately preceding the assessment year relevant to the previous year in which search is conducted. Applying this yardstick, the six years would go up to 2013-14. The search assessment year, namely, 2019-20 has to be excluded. This is because, the statute talks of the six years preceding the search assessment year. But, while

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<sup>17</sup> WP(MD) No. 4327/2021



computing the ten assessment years, the starting point has to be the end of the search assessment year. In other words, search assessment year has to be including in the latter case. It is not for me to fathom the wisdom of the parliament. I cannot assume that the amendment introduced by the Finance Act, 2017 intended to bring in four more years over and above the six years already provided within the scope of the provision. When the law has prescribed a particular length, it is not for the court to stretch it. Plasticity is the new mantra in neuroscience, thanks to the teachings of Norman Doidge. It implies that contrary to settled wisdom, even brain structure can be changed. But not so when it comes to a provision in a taxing statute that is free of ambiguity. Such a provision cannot be elastically construed.”

31. Mr. Ved Jain, appearing for some of the writ petitioners addressed the following submissions. It was at the outset submitted that the relevant date for the purposes of computing the period of preceding six AYs’ or the relevant AYs’ is an issue which is no longer res integra and stands conclusively determined by the Supreme Court in *Jasjit Singh*. The position so enunciated, according to Mr. Jain, also finds resonance in the observations rendered by the Supreme Court in *Vikram Sujitkumar Bhatia*. According to learned counsel, the purpose of the First Proviso to Section 153C of the Act is not merely to deal with or provide for abatement of pending assessments but also to identify the date from which the six year period is to be reckoned. According to Mr. Jain, the respondents appear to have proceeded on the incorrect premise of the 2017 amendments having altered or modified the aforesaid position. Adopting the submissions which were addressed by Mr. Kapoor in this respect, Mr. Jain submitted that the amendments introduced in Section 153C were only consequential and in order to attune it with Section 153A. Mr. Jain submitted that the principles which came to be propounded in *Jasjit Singh*, although being a judgment rendered in the context of the statutory position as existing prior to the 2017 amendments, would remain unchanged. In any case,



Mr. Jain sought to highlight the fact that the decision in *Jasjit Singh* noticed Sections 153A and 153C as they came to exist post the 2017 amendments as well. Mr. Jain submitted that the judgment in *Jasjit Singh* had taken due note of the serious prejudice which would be caused to an assessee if the Revenue's contentions were to be accepted or if an inordinate delay in handing over papers and materials to the jurisdictional AO of the non-searched person was to be ignored. According to Mr. Jain, the time gap that may occur clearly assumes a status of criticality in light of the binding decisions handed down by the Supreme Court.

32. Mr. Jain also reiterated the contentions addressed by Mr. Kapoor and insofar as they pertained to the computation of the six and ten AYs' as also the distinction between the starting point from which those periods are to be reckoned. Learned counsel submitted that the respondents clearly did not have jurisdiction to issue notices for AYs' 2010-11 to 2013-14 since the period for which an assessment could have been undertaken would have to be reckoned from the deemed date of search, a concept introduced in terms of the First Proviso to Section 153C. According to learned counsel, in WP(C) 1113/2024 the material gathered in the course of the search was handed over to the jurisdictional AO of the non-searched person on 24 June 2022 and which would thus fall in FY 2022-23 with its corresponding AY being 2023-24. Mr. Jain urged that the terminal point of AY 2023-24 would undoubtedly be 31 March 2024. According to learned counsel, if the ten year period were to be counted backwards from that date it would not travel beyond AY 2014-15. This was explained by way of the following chart:



“Computation of 10 years considering 31.03.2024 as the end of the relevant assessment year:

1 <sup>st</sup> Year	AY 2023-24
2 <sup>nd</sup> Year	AY 2022-23
3 <sup>rd</sup> Year	AY 2021-22
4 <sup>th</sup> Year	AY 2020-21
5 <sup>th</sup> Year	AY 2019-20
6 <sup>th</sup> Year	AY 2018-19
7 <sup>th</sup> Year	AY 2017-18
8 <sup>th</sup> Year	AY 2016-17
9 <sup>th</sup> Year	AY 2015-16
<b>10<sup>th</sup> Year</b>	<b>AY 2014-15</b>

As AY 2014-15 is the terminal ‘relevant assessment year’, no proceedings can be initiated for any year prior to AY 2014-15.”

33. According to Mr. Jain, AY 2014-15 would thus constitute the last relevant AY for which notice could have been possibly issued subject of course to the additional conditions prescribed under the Fourth Proviso to Section 153A being satisfied. It was in the aforesaid backdrop that Mr. Jain contended that proceedings for AY 2010-11 up to AY 2013-14 would be barred in respect of all cases where the deemed date of search falls in FY 2022-23. Mr Jain also commended for our consideration the judgment of the Madras High Court in *A.R. Safiullah*.

34. Without prejudice to the aforementioned contention, Mr. Jain submitted that proceedings for AY 2010-11 and AY 2011-12 came to be barred by limitation on 31 March 2016 and 31 March 2017 respectively. It was thus submitted that the statutory position which came into place post the 2017 Amending Act would neither enlarge the period of limitation period nor could those amendments be viewed as empowering the respondents to reopen concluded assessments. Mr. Jain further submitted that since all proceedings for AY 2010-11 and 2011-



12 had attained finality prior to 01 April 2017, the impugned notices are liable to be quashed additionally on this score.

35. Mr. Rohit Jain, learned counsel appearing in some of the writ petitions, submitted that in respect of the “*other person*”, Section 153C substitutes the date of search with the date of receipt of documents by the jurisdictional AO. This, according to Mr. Rohit Jain, is evident from that provision bidding one to construe the date of receipt of documents by the AO of the non-searched person alone being relevant. The aforesaid position, according to Mr. Jain, can no longer be doubted bearing in mind the judgments in *Jasjit Singh* and *RRJ Securities*. Mr. Jain then submitted that insofar as the ten year block period is concerned, Section 153C enables reopening of assessments for a period of ten years including the year of receipt of documents. Learned counsel laid stress upon Section 153A speaking of the end of the assessment year and identifying that date as relevant for the purposes of identification of the ten year period. The aforesaid argument was sought to be explained with the aid of the following table:

“AYs	No. of Years	Year of passing/handover of documents
AY 2023-24	1	
AY 2022-23	2	
AY 2021-22	3	
AY 2020-21	4	
AY 2019-20	5	
AY 2018-19	6	
AY 2017-18	7	
AY 2016-17	8	
AY 2015-16	9	
AY 2014-15	<b>10</b>	
<b>AY 2013-14</b>	<b>11</b>	<b>Barred by limitation [point no.2]</b>



AY 2012-13	12	Barred by limitation [Point Nos. 1 & 2]”
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36. Mr. Rohit Jain then contended that prior to the 2017 Amending Act being enforced, proceedings under Section 153A or 153C of the Act could have been initiated only for six AYs’. According to learned counsel, the enlarged period of ten years became applicable only with effect from 01 April 2017. Consequently, according to learned counsel, proceedings for AY 2011-12 and prior thereto would be liable to be viewed as “*dead years*” since the period within which they could be reopened had already expired prior to 01 April 2017. Mr. Jain sought to buttress the aforesaid contention by referring to the judgments of *K.M. Sharma* and *Brahm Dutt*. Mr. Jain also referred to and relied upon the judgment of the Supreme Court in *Jasjit Singh* and which has been noticed in the preceding parts of this decision.

37. Dr. Rakesh Gupta, learned counsel, adopted the aforesaid submissions and laid emphasis on the deleterious effects that would ensue if one were to construe Section 153C in the manner as suggested by the respondents and in one sense completely ignoring the plain language of the First Proviso to Section 153C.

#### **D. THE STAND OF THE RESPONDENTS**

38. Submissions on behalf of the respondents were addressed by Mr. Sunil Agarwal, Mr. Aseem Chawla, Mr. Puneet Rai, Mr. Shlok Chandra, Mr. Sanjay Kumar and Mr. Gaurav Gupta. The common written submissions have been submitted under the pen of Mr. Aseem Chawla, learned counsel, and are dealt with below.



39. Learned counsels firstly submitted that the years which are thrown open by virtue of Sections 153A and 153C are predicated upon the previous year in which the search is conducted or a requisition made. We were referred to the limitation provisions enshrined in Section 149 and which was advocated to comprise the point when the period post the end of the “*relevant assessment year*” would elapse. According to learned counsels, the expression “*relevant assessment year*” cannot be accorded a general meaning since that expression as appearing in Section 153A is envisaged to mean the four assessment years in addition to the preceding six AYs’. Learned counsels laid emphasis on Circular No. 2/2018 dated 15 February 2018 to submit that the same correctly explains the intent of the Legislature while introducing the 2017 Amending Act. According to learned counsels, the aforesaid amendments were introduced in order to rationalize the provisions of search assessment. They would contend that the amendments seek to align and harmonize the provisions of Section 153C with Section 153A and thus construct a holistic scheme of assessment pertaining to searches. It was further submitted that in the absence of Section 153C independently defining “*relevant assessment year*”, the expression would have to be necessarily understood in light of its definition as appearing in Section 153A. This position, according to learned counsels, is also manifest from para 80 of the aforenoted CBDT Circular which is extracted hereinbelow:-

**“80. Rationalisation of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C.**

**80.1** The provisions of clause (c) of the section 197 of the Finance Act, 2016 provide that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration Scheme, 2016



(the Scheme), and no declaration in respect of such income is made under the Scheme, then, such income shall be deemed to have accrued, arisen or received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and provisions of the said Act shall apply accordingly.

**80.2** In view of the various representations received from stakeholders, section 197 of the Finance Act, 2016 has been amended so as to omit clause (c) of the said section.

**80.3 *Applicability:*** This amendment takes effect retrospectively from 1st June, 2016.

**80.4** However, in order to protect the interest of the revenue in cases where tangible evidence(s) are found during a search or seizure operation (including section 132A cases) and the same is represented in the form of undisclosed investment in any asset, section 153A of the Income-tax Act relating to search assessments has been amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided up to the tenth assessment year if—

- (i) the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years (falling beyond the sixth year);
- (ii) such income escaping assessment is represented in the form of asset;
- (iii) the income escaping assessment or part thereof relates to such year or years.

**80.5 *Applicability:*** The amended provisions of section 153A of the Income-tax Act shall apply where search under section 132 of the Income-tax Act is initiated or requisition under section 132A of the Income-tax Act is made on or after the 1st day of April, 2017.

**80.6** Section 153C of the Income-tax Act has also been amended to provide a reference to the relevant assessment year or years as referred to in section 153A of the Income-tax Act.

**80.7 *Applicability:*** These amendments take effect from 1st April, 2017.”



40. The respondents asserted that both Sections 153A and 153C must be read together for the purposes of calculation of six AYs'. They sought to draw sustenance for the aforesaid proposition from the following observations as rendered by the Court in **Principal CIT vs. Sarwar Agency P. Ltd.**<sup>18</sup>:

“11. Mr. Ashok Manchanda, learned senior standing counsel for the appellant, sought to pursue this court to reconsider its view in RRJ Securities (supra). The court declines to do so for more than one reason. First, for reasons best known to it, the Revenue has not challenged the decision of this court in RRJ Securities (supra) in the Supreme Court. The said decision has been consistently followed by the authorities under this court as well as by this court. Thirdly, the recent amendment to section 153C(1) of the Act states for the first time that for both the searched person and the other person the period of reassessment would be six assessment years preceding the year of search. The said amendment is prospective.”

41. The submission in essence was that the identification of “*relevant assessment year*” must be construed and interpreted harmoniously since it could not have been the intent of the Legislature to provide two separate yardsticks for the purposes of computing the assessment period under Sections 153A and 153C. Learned counsels contended that the phrase “*six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted..*” reiterates the position which prevailed even prior to 01 April 2017. It was submitted that the aforesaid phrase already existed in the Second Proviso to Section 153C and thus the curative amendments introduced in 2017 being aimed primarily at aligning and harmonizing the two provisions.

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<sup>18</sup> 2017 SCC OnLine Del 9860



42. It was then submitted that not only were the amendments introduced in 2017 curative, Sections 153A and 153C essentially formed a part of the machinery provisions of the Act and would thus apply retroactively. Reliance in this respect was placed on the judgment of the Supreme Court in **Commissioner of Income Tax vs. Calcutta Knitwears**<sup>19</sup> and to the following observations as appearing therein:-

“18. Sections 158-BC and 158-BD of the Act are machinery provisions. Section 158-BC of the Act provides the procedure for block assessment and Section 158-BD of the Act provides for assessments in the case of an undisclosed income of any other person. The said sections are relevant for the purpose of this case and, therefore, they are extracted. They read as under:

**“158-BC.Procedure for block assessment.**—Where any search has been conducted under Section 132 or books of account, other documents or assets are requisitioned under Section 132-A, in the case of any person, then—

(a) the assessing officer shall—

(i) in respect of search initiated or books of accounts or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997 serve a notice to such person requiring him to furnish within such time not being less than fifteen days;

(ii) in respect of search initiated or books of account or other documents or any assets requisitioned on or after the 1st day of January, 1997 serve a notice to such person requiring him to furnish within such time not being less than fifteen days but not more than forty-five days, as may be specified in the notice a return in the prescribed form and verified in the same manner as a return under clause (i) of sub-section (1) of Section 142, setting forth his total income including the undisclosed income for the block period:

Provided that no notice under Section 148 is required to be issued for the purpose of proceeding under this Chapter:

Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;

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<sup>19</sup> 2014 SCC OnLine SC 227



(b) the assessing officer shall proceed to determine the undisclosed income of the block period in the manner laid down in Section 158-BB and the provisions of Section 142, sub-sections (2) and (3) of Section 143, Section 144 and Section 145 shall, so far as may be, apply;

(c) the assessing officer, on determination of the undisclosed income of the block period in accordance with this Chapter, shall pass an order of assessment and determine the tax payable by him on the basis of such assessment;

(d) the assets seized under Section 132 or requisitioned under Section 132-A shall be dealt with in accordance with the provisions of Section 132-B.

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**158-BD. Undisclosed income of any other person.**—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 132-A, 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 assessing officer shall proceed under Section 158-BC against such other person and the provisions of this Chapter shall apply accordingly.”

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**32.** It is also trite that while interpreting a machinery provision, the courts would interpret a provision in such a way that it would give meaning to the charging provisions and that the machinery provisions are liberally construed by the courts. In *Mahim Patram (P) Ltd. v. Union of India* [(2007) 3 SCC 668] this Court has observed that: (SCC p. 680, paras 25-26)

“25. A taxing statute indisputably is to be strictly construed. (See *J. Srinivasa Rao v. State of A.P.* [(2006) 12 SCC 607 : (2006) 13 Scale 27] ) It is, however, also well settled that the machinery provisions for calculating the tax or the procedure for its calculation are to be construed by ordinary rule of construction. Whereas a liability has been imposed on a dealer by the charging section, it is well settled that the court would construe the statute in such a manner so as to make the machinery workable.

26. In *J. Srinivasa Rao* [(2006) 12 SCC 607 : (2006) 13 Scale 27] this Court noticed the decisions of this Court in *Gursahai*



*Saigal v. CIT* [(1963) 48 ITR 1 (SC)] and *Ispat Industries Ltd. v. Commr. of Customs* [(2006) 12 SCC 583 : (2006) 202 ELT 561].

‘17. In *Gursahai Saigal* [(1963) 48 ITR 1 (SC)] the question which fell for consideration before this Court was construction of the machinery provisions vis-à-vis the charging provisions. The Schedule appended to the Motor Vehicles Act is not machinery provision. It is a part of the charging provision.

18. By giving a plain meaning to the Schedule appended to the Act, the machinery provision does not become unworkable. It did not prevent the clear intention of the legislature from being defeated. It can be given an appropriate meaning.’”

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**34.** It is the duty of the court while interpreting the machinery provisions of a taxing statute to give effect to its manifest purpose. Wherever the intention to impose liability is clear, the courts ought not be hesitant in espousing a commonsense interpretation to the machinery provisions so that the charge does not fail. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same (*Whitney v. IRC* [1926 AC 37 (HL)] , *CIT v. Mahaliram Ramjidas* [(1939-40) 67 IA 239 : (1940) 52 LW 234 : (1940) 8 ITR 442] , *Indian United Mills Ltd. v. Commr. of Excess Profits Tax* [(1955) 27 ITR 20 (SC)] and *Gursahai Saigal v. CIT* [(1963) 48 ITR 1 (SC)] ; *CWT v. Sharvan Kumar Swarup & Sons* [(1994) 6 SCC 623] ; *CIT v. National Taj Traders* [(1980) 1 SCC 370 : 1980 SCC (Tax) 124] ; *Associated Cement Co. Ltd. v. CTO* [(1981) 4 SCC 578 : 1982 SCC (Tax) 3 : (1981) 48 STC 466] ). Francis Bennion in *Bennion on Statutory Interpretation*, 5th Edn., Lexis Nexis in support of the aforesaid proposition put forth as an illustration that since charge made by the legislator in procedural provisions is excepted to be for the general benefit of litigants and others, it is presumed that it applies to pending as well as future proceedings.

**35.** Having said that, let us revert to the discussion of Section 158-BD of the Act. The said provision is a machinery provision and inserted in the statute book for the purpose of carrying out assessments of a person other than the searched person under Sections 132 or 132-A of the Act. Under Section 158-BD of the Act, if an officer is satisfied that there exists any undisclosed income which may belong to any other person other than the searched person under Sections 132 or 132-A of the Act, after



recording such satisfaction, may transmit the records/documents/chits/papers, etc. to the assessing officer having jurisdiction over such other person. After receipt of the aforesaid satisfaction and upon examination of the said other documents relating to such other person, the jurisdictional assessing officer may proceed to issue a notice for the purpose of completion of the assessments under Section 158-BD of the Act, the other provisions of Chapter XIV-B shall apply.

36. The opening words of Section 158-BD of the Act are that the assessing officer must be satisfied that “undisclosed income” belongs to any other person other than the person with respect to whom a search was made under Section 132 of the Act or a requisition of books was made under Section 132-A of the Act and thereafter, transmit the records for assessment of such other person. Therefore, the short question that falls for our consideration and decision is at what stage of the proceedings should the satisfaction note be prepared by the assessing officer: whether at the time of initiating proceedings under Section 158-BC for the completion of the assessments of the searched person under Sections 132 and 132-A of the Act or during the course of the assessment proceedings under Section 158-BC of the Act or after completion of the proceedings under Section 158-BC of the Act.

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38. We would certainly say that before initiating proceedings under Section 158-BD of the Act, the assessing officer who has initiated proceedings for completion of the assessments under Section 158-BC of the Act should be satisfied that there is an undisclosed income which has been traced out when a person was searched under Section 132 or the books of accounts were requisitioned under Section 132-A of the Act. This is in contrast to the provisions of Section 148 of the Act where recording of reasons in writing are a sine qua non. Under Section 158-BD the existence of cogent and demonstrative material is germane to the assessing officers' satisfaction in concluding that the seized documents belong to a person other than the searched person is necessary for initiation of action under Section 158-BD. The bare reading of the provision indicates that the satisfaction note could be prepared by the assessing officer either at the time of initiating proceedings for completion of assessment of a searched person under Section 158-BC of the Act or during the stage of the assessment proceedings. It does not mean that after completion of the assessment, the assessing officer cannot prepare the satisfaction note to the effect that there exists income tax belonging to any person other than the searched person in respect of whom a search was made under Section 132 or requisition of



books of accounts was made under Section 132-A of the Act. The language of the provision is clear and unambiguous. The legislature has not imposed any embargo on the assessing officer in respect of the stage of proceedings during which the satisfaction is to be reached and recorded in respect of the person other than the searched person.

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**41.** In the result, we hold that for the purpose of Section 158-BD of the Act a satisfaction note is sine qua non and must be prepared by the assessing officer before he transmits the records to the other assessing officer who has jurisdiction over such other person. The satisfaction note could be prepared at either of the following stages:

- (a) at the time of or along with the initiation of proceedings against the searched person under Section 158-BC of the Act;
- (b) along with the assessment proceedings under Section 158-BC of the Act; and
- (c) immediately after the assessment proceedings are completed under Section 158-BC of the Act of the searched person.”

43. It was argued that the amendments introduced in the statute in 2017 were only clarificatory and curative and therefore must be conferred a construction which subserves the intent of the charging provision. According to learned counsels, understood in the aforesaid light, it would be manifest that the amended provisions would apply to all pending cases where notices may have come to be issued after 01 April 2017 and irrespective of the AY to which they may relate. According to learned counsels, since the decisions rendered by the Court in *RRJ Securities* as well as the Supreme Court in *Jasjit Singh* had dealt with a pre 2017 position, they are clearly distinguishable.

44. It was also their submission that the rule against retrospective construction would not stand attracted to a provision merely because a part of the requisites for its action is drawn from a time antecedent to its passing. According to learned counsels, if a contrary construction were



to be given, every statute would be presumed to apply only to persons born and things coming into existence after its operation and thus resulting in a virtual nullification of most statutes. Reliance in this respect was placed upon the decision in **Birmingham City Council v. Walker**<sup>20</sup> and the relevant parts of the said decision are extracted below:

“11 In my opinion, therefore, the events to which section 88(1) refers are events in relation to tenancies which have become secure tenancies and not to events which happened earlier. In support of this construction, I would rely on three indications. First, the general presumption against retrospectivity. One does not expect rights conferred by the statute to be destroyed by events which took place before it was passed. Secondly, the word “successor” most naturally means successor to a secure tenancy. Although successor is a defined expression, the ordinary meaning of the word is part of the material which can be used to construe the definition. Thirdly, as I have said, there is the absence of any rational purpose in giving the definitions a retrospective effect. It follows that “he was a joint tenant and has become the sole tenant” in section 88(1)(b) means that he was a joint tenant under a secure tenancy and has become the sole tenant under a secure tenancy. When Mrs Betty Walker became sole tenant, it was not of a secure tenancy and she was therefore not a successor. I would therefore dismiss the appeal.”

45. It was further urged that Sections 153A and 153C must be interpreted in a manner that the object and purpose of search assessment is not frustrated. It was in this respect contended that by the time the impugned notices came to be issued, Section 153C existed in its amended avatar and it was the provision as it stood then which would apply. It was further submitted that the decisions in *S.S. Gadgil*, *Brahm Dutt* and *C.B. Richards Ellis* are clearly distinguishable since those pertained to Section 149 and not Section 153C. It was sought to be emphasized that since both the provisions stand couched in language

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<sup>20</sup> (2007) 3 All ER 445



which is clearly distinct and distinguishable, the aforementioned judgments would have no application.

46. It was then argued that a calculation of the period of ten AYs' must be reckoned from the date of search and not from when documents are either handed over to a jurisdictional AO or when the Satisfaction Note in respect of a non-searched person is drawn. According to the respondents, bearing in mind the fact that the search in the present batch of cases was conducted on 18 October 2019 and the corresponding FY therefore being 2019-20, the equivalent AY would be AY 2020-21. In view of the aforesaid, they would contend that the calculation of six years would have to commence from AY 2019-20. Similarly, according to learned counsels appearing for the respondents, the ten years would have to be identified in a like manner. The respondents also relied upon the judgment rendered by the Madras High Court in **RKM Powergen vs. ACIT**<sup>21</sup> and which, according to them, correctly enunciates how the "go back" period in terms of Section 153C is to be computed.

47. They also sought to lay emphasis on the underlying objective of the 2017 Amending Act being a rationalization of the provisions in respect of time limits for completion of search assessment. According to learned counsels, if the aforesaid aspects were to be kept in the forefront, it would be evident that both the six year as well as the ten year period would be liable to be interpreted accordingly. It was submitted that a Satisfaction Note may come to be drawn in three possible scenarios: (a) at the time of or along with the initiation of

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<sup>21</sup> 2022 SCC Online Mad 8995



proceedings against the searched person or (b) in the course of assessment proceedings under Section 153A of the Act or (c) immediately after assessment proceedings in the case of the searched person are completed. According to the respondents, the significance of the First Proviso to Section 153C is limited to the purpose of abatement of pending assessment and reassessment.

48. According to learned counsels, the reference point for abatement of pending assessment proceedings was put in place only to ensure that completed assessments in respect of the “*other person*” do not get abated. It was submitted that there is bound to be a time gap between the search and handing over of documents to the AO of a third person. This, since according to them, satisfaction with respect to the “*other person*” would require examination and investigation at different levels. However, they submitted that public interest requires that the right of the Department to tax income basis the seized material be preserved in the case of the searched person.

49. The respondents asserted that the submission of the writ petitioners that the six or the ten year block period is liable to be calculated from the date of handing over of documents to the AO of the non-searched person fails to take into consideration various practical difficulties which would necessarily arise. It was submitted that there would always be a time lag between examination of the seized material and recording of satisfaction in the case of the “*other person*” by the AO of the searched person and the handing over of the seized material to the jurisdictional AO of the “*other person*”. According to learned counsels, resultantly the period of six AYs’ as well as of the “*relevant assessment year*” of the searched person would never coincide with



those in the case of the “*other person*”, even though in both scenarios the trigger for assessment is the material seized in the course of search. According to learned counsels, the inevitable consequence of the above would be that the number of years which would effectively become available for the purposes of assessment under Section 153C of the Act would be lesser than those under Section 153A. They submitted that this eventuality would clearly come into existence notwithstanding the possibility of the incriminating material pertaining to the “*other person*” being available. It was further urged that if the contention of the writ petitioners were accepted, the year of search for the “*other person*” would itself get advanced beyond the actual year of initiation of search to the year of handing over and therefore be after an interval post the actual year in which the search was conducted. Resultantly, this would lead to a situation where the period of six AYs’ may comprise of a few AYs’ in respect of which there would be no seized material by virtue of the period intervening between the year of search and the year of actual handing over.

50. Insofar as the submissions addressed in the context of the Fourth Proviso to Section 153A is concerned, the respondents argued that the prescription of INR 50 lakhs is relevant only for the four additional AYs’ and those falling beyond the six AYs’. It was submitted that since in the present batch, the respondents have not opened any assessment beyond the six year period, the question of incriminating material amounting to INR 50 lakhs or more would not arise. This submission, however, is founded on the principal contention of the respondents that the concerned AYs’ are liable to be calculated from the date of search and not from the date of recording of satisfaction by the AO of the



“*other person*”. It was also contended by the respondents that at the stage of issuance of notice, it would be unjustified to fetter the hands of the AO by requiring it to have formed a definitive opinion of income amounting to INR 50 lakhs or more having escaped assessment. It was submitted that the issuance of notice is triggered by a prima facie evaluation of the material gathered, and consequently, it would be wholly incorrect for the prescription of INR 50 lakhs being read as a necessary precondition or a definitive sine qua non. Emphasis was also laid on the Fourth Proviso to Section 153A using the expression “*amounts to or is likely to amount to*” to submit that this expression is itself indicative of the AO only being prima facie satisfied that income amounting to or exceeding INR 50 lakhs may have escaped assessment. Learned counsels also underlined the words “*in aggregate*” as occurring in the Fourth Proviso to submit that even if the prescription of INR 50 lakhs or more was satisfied on a cumulative computation of the six or the ten AYs’ period, the precondition as placed by virtue of the Fourth Proviso would stand satisfied.

#### **E. ANALYSIS OF THE STATUTORY FRAMEWORK**

51. Having noticed the rival submissions which were addressed, we now proceed with our analysis of the questions which stand posited. Prior to the insertion of Sections 153A, 153B, and 153C in the Chapter pertaining to procedure for assessment, an assessment in respect of search cases was governed and regulated by Chapter XIVB of the Act. The said Chapter comprising of Sections 158B to 158BH set out the procedure for assessment or reassessment proceedings being undertaken as a fallout of a search which may have been conducted. Chapter XIVB spoke of assessments being undertaken for a block



period comprising of six AYs' preceding the previous year in which the search may have been conducted or a requisition made. In terms of Section 158BA, the total undisclosed income relating to the block period as determined was to be taxed at rates specified in Section 113 as income of the block period irrespective of the previous year or years to which such income related. In terms of the Explanation which stood placed in Section 158BA, the assessment under Chapter XIVB was to be in addition to regular assessment in respect of each previous year included in the block period. The Explanation to Section 158 BA is reproduced hereinbelow:-

*“Explanation-* “For the removal of doubts, it is hereby declared that—

(a) the assessment made under this Chapter shall be in addition to the regular assessment in respect of each previous year included in the block period;

(b) the total undisclosed income relating to the block period shall not include the income assessed in any regular assessment as income of such block period;

(c) the income assessed in this Chapter shall not be included in the regular assessment of any previous year included in the block period.”

52. As would be manifest from a reading of the various provisions that stood placed in that Chapter, they essentially contemplated and envisaged two separate assessments being undertaken, namely, one pertaining to the block period and which would get triggered pursuant to a search or a requisition made and the second consisting of a regular assessment proceeding parallelly and unconcerned with the computation of the undisclosed income identified for the said block period. Of equal significance was Section 158BA(3) of the Act and which read as follows:-



**“158BA. Assessment of undisclosed income as a result of search.—**

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(3) Where the assessee proves to the satisfaction of the Assessing Officer that any part of income referred to in sub-section (1) relates to an assessment year for which the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 for any previous year has not expired, and such income or the transactions relating to such income are recorded on or before the date of the search or requisition in the books of account or other documents maintained in the normal course relating to such previous years, the said income shall not be included in the block period.”

53. The aforesaid sub-section reinforces the scheme of Chapter XIVB requiring the block period assessment being undertaken independent of a regular assessment and thereby not contemplating a merger of the two assessment proceedings or abatement of pending assessments. Section 158BI came to be incorporated in Chapter XIVB by virtue of Finance Act 2003 with effect from 01 June 2003 and reads as under:-

**“158BI. Chapter not to apply after certain date.—** The provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003.”

54. Sections 153A, 153B and 153C were introduced by virtue of Finance Act, 2003. The trinity provisions constituted a paradigm change in the manner in which search assessments were liable to be conducted. They set up a procedure clearly distinct from that which was envisaged under Chapter XIVB and were ordained to apply in respect of all searches or requisitions made after 31 May 2003. The fact that these provisions were envisaged to now govern and regulate all search assessments came to be reinforced by virtue of the introduction of



Section 158BI and thus bringing the curtains down on the block period assessment procedure set out in Chapter XIVB and which had held the field till then.

55. It would in this regard be pertinent to refer to the Notes on Clauses of the Finance Bill, 2003 relevant parts whereof are reproduced hereinbelow:-

**“Notes on Clauses**

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Clause 59 seeks to insert new sections 153A, 153B and 153C in the Income-tax Act relating to assessment in case of search or requisition made after 31st May, 2003, specifying time-limit for completion of assessment or reassessment of income and assessment of income of any other person in certain cases.

The proposed new section 153A provides that in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall, notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, issue notices to such person requiring him to furnish within such period as may be specified in the notice the return of income in respect of each assessment year falling within six assessment years referred to in clause (b) of section 153A, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139. The Assessing Officer shall assess or reassess the total income of six assessment years immediately preceding the previous year during which such search is conducted or requisition is made and such assessment or reassessment shall be made in respect of each assessment year falling within six assessment years. This clause also provides that the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this section, pending on the date of the initiation of the search under section 132 or requisition under section 132A, as the case may be, shall abate. This clause also provides that save as otherwise provided in section 153A, section 153B and section 153C, all other provisions of the Income-tax Act shall apply to the assessment or reassessment



made under this section and in the assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

The proposed sub-section (1) of the new section 153B provides for the time-limit for completion of assessment in case of a person where a search is initiated under section 132 or books of account, other documents or assets are requisitioned under section 132A. It provides that the Assessing Officer shall make an order of assessment or reassessment in respect of each assessment year falling within six assessment years referred to in clause (b) of section 153A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed. The Assessing Officer shall make an order of assessment or reassessment in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed. This clause also provides that in computing the period of limitation for the purposes of this section, the period during which the assessment proceeding is stayed by an order or injunction of any court; or the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section, or the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee of being re-heard under the proviso to section 129, or in a case where an application made before the Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing on the date on which such application is made and ending with the date on which the order under sub-section (1) of section 245D is received by the Commissioner under sub-section (2) of that section, shall be excluded. This clause also provides that where immediately after the exclusion of the aforesaid period, the period of limitation available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the period of limitation shall be deemed to be extended accordingly.

The proposed sub-section (2) seeks to provide that the



authorisation referred to in clause (a) and clause (b) shall be deemed to have been executed in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued and in the case of requisition made under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

The proposed new section 153C provides for assessment or reassessment of income of any other person. 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 or belongs 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. These amendments will take effect from 1st June, 2003.”

56. Section 153A, when finally introduced, commenced with a non-obstante clause giving it overriding effect over Sections 139, 147 to 149, 151 and 153 in case of a person where a search may have been initiated or a requisition made after 31 May 2003. It provided that where a search comes to be initiated or where books of accounts or other documents or assets come to be requisitioned, the AO would require the searched person to furnish a return of income in respect of each AY falling within six AYs' immediately preceding the AY relevant to the previous year in which search may have been conducted or requisition made. The First Proviso further stipulated that the AO would assess or reassess the total income in respect of each AY falling within the block of six AYs'. Of equal significance was the Second Proviso and which prescribed that if any proceedings relating to assessment or reassessment relating to the “*relevant assessment year*” spoken of



earlier were pending on the date of initiation of the search or on the making of a requisition, the same would abate.

57. While Section 153A pertained to assessment in case of the person searched, it undoubtedly laid in place the assessment machinery for the non-searched person and in respect of whom the search may have led to the identification of money, bullion, jewellery or other valuable article or thing, books of account, documents belonging to that “*other person*”. Section 153C did not lay in place a separate procedure for assessment and merely postulated that assessment or reassessment, as the case may be, would have to be undertaken in accordance with the provisions of Section 153A. In terms of Finance Act, 2005, a Proviso came to be inserted in section 153C(1) in the following terms:-

**“Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person.”**

58. Clause 47 of the Notes on Clauses explained the intent underlying the introduction of this Proviso with retrospective effect from 01 June 2003 in the following words:-

“Clause 47 seeks to amend section 153C of the Income-tax Act relating to assessment of income of any other person.

Under the existing provisions of section 153A, where the Assessing Officer is satisfied that books of account or documents or assets seized under section 132 or requisitioned under section 132A belong to a person other than a person in whose case search under section 132 or requisition under section 132A was made, he shall handover the same to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against such other person under section 153A. Second proviso to section 153A provides that assessment or



reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in the said section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate.

It is proposed to amend the said section so as to provide that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having the jurisdiction over such other person.

It is further proposed to insert a new sub-section (2) so as to provide that for assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A in case of other person, where (a) no return of income has been furnished by such person and no notice under sub-section (1) of section 142 has been issued to him, or (b) return of income has been furnished by such person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or (c) assessment or reassessment, if any, has been made, before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person for such assessment year in the manner provided in section 153A. The provisions of proposed new subsection (2) would apply where books of account or documents or assets seized or requisitioned referred to in sub-section (1) has been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A.

This amendment will take effect retrospectively from 1st June, 2003 and will, accordingly, apply in relation to a search initiated under section 132 or in relation to books of account, other documents or any assets requisitioned under section 132A after the 31st May, 2003.”

59. The recast Section 153C, as amended by the Finance Act, 2005 read as under:-



“153C. (1) 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 :

**Provided** that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person.

(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year—

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or

(c) assessment or reassessment, if any, has been made, before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.”



60. Thereafter, vide the 2014 Finance Act, Section 153C was further amended to provide that the jurisdictional AO of the “*other person*” was empowered to issue notice to such “*other person*” if he was satisfied that the books of accounts or documents or assets seized “*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*”.

61. The relevant extracts of the Memorandum explaining the provisions of the Finance Bill, 2014 are reproduced hereinbelow:

**“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.”

62. Clause 53 of the Notes on clauses explaining the amendment to Section 153C introduced vide the 2014 Finance Act 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.”

63. The recast Section 153C, as amended vide the 2014 Finance Act is set out below:

**“Assessment of income of any other person.**

**153C.** (1) 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, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A]

[**Provided** that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to sub-section (1) of section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person:

**Provided further** that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made except in cases where any assessment or reassessment has abated.

(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of



income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year —

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired,

or

(c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.”

64. The next and crucial amendments which came to be made in Sections 153A, 153B and 153C were introduced by virtue of the Finance Bill, 2017 and which for the first time adopted the concept of the “*relevant assessment year*” and provided an explanation for the said term. The definition of the expression “*relevant assessment year*” also came to be introduced by virtue of this Bill. It would at this stage be apposite to set out a comparative table which would indicate how Sections 153A and 153C existed between Finance Acts, 2015 and 2017:-

<b>“Income-Tax Act, 1961 - As Amended by Finance Act 2015</b>	<b>Income-Tax Act, 1961 - As Amended by Finance Act 2017</b>
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Assessment in case of search or requisition.:

153A. [(1)] Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made:

Provided that the Assessing Officer shall assess or reassess the total income in respect of

Assessment in case of search or requisition :

153A. [(1)] Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years [and for the relevant assessment year or years] referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made [and for the relevant assessment year or years]:

Provided that the Assessing



<p>each assessment year falling within such six assessment years:</p> <p>Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this[sub-section] pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate:</p> <p>[Provided also that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso),specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made.]</p> <p>[(2) 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</p>	<p><u>Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years [and for the relevant assessment year or years]:</u></p> <p><u>Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years [and for the relevant assessment year or years] referred to in this[sub-section] pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate:</u></p> <p><u>[Provided also that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso),specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made[and for the relevant assessment year or years]:]</u></p> <p><u>[Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—</u></p> <p><u>(a) the Assessing Officer has in his possession books of account</u></p>
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<p>to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the [Principal Commissioner or] Commissioner:</p> <p>Provided that such revival shall cease to have effect, if such order of annulment is set aside.]</p> <p><i>Explanation.</i> —For the removal of doubts, it is hereby declared that,—</p> <p>(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;</p> <p>(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.</p>	<p><u>or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;</u></p> <p><u>(b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and</u></p> <p><u>(c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.</u></p> <p><u>Explanation 1. —For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.</u></p> <p><u>Explanation 2. —For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.]</u></p> <p>[(2) 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</p>
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	<p>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 [Principal Commissioner or] Commissioner:</p> <p>Provided that such revival shall cease to have effect, if such order of annulment is set aside.]</p> <p><i>Explanation.</i>—For the removal of doubts, it is hereby declared that,—</p> <p>(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;</p> <p>(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.”</p>
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65. A similar comparative table which would indicate how Section 153C read between Finance Acts, 2015 and 2017 is set out hereinbelow:

<b>Income-Tax Act, 1961 - As Amended by Finance Act 2015</b>	<b>Income-Tax Act, 1961 - As Amended by Finance Act 2017</b>
<b>Assessment of income of any other person:</b>	<b>Assessment of income of any other person.:</b>



<p>153C. [(1)] [Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—</p> <p>(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or</p> <p>(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates 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, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A] :]</p> <p>[Provided that in case of such other person, the reference to the date of initiation of the</p>	<p>153C. [(1)] [Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—</p> <p>(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or</p> <p>(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates 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, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person <u>[for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and]</u> for the relevant assessment year or years referred to in sub-section (1) of section 153A] :]</p> <p>[Provided that in case of such other person, the reference to the date of initiation of the</p>
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search under section 132 or making of requisition under section 132A in the second proviso to [sub-section (1) of] section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person :]

[Provided further that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made except in cases where any assessment or reassessment has abated.]

[(2) Where books of account or documents or assets seized or requisitioned as referred to in subsection (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment

search under section 132 or making of requisition under section 132A in the second proviso to [sub-section (1) of] section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person :]

[Provided further that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made [and for the relevant assessment year or years as referred to in sub-section (1) of section 153A] except in cases where any assessment or reassessment has abated.]

[(2) Where books of account or documents or assets seized or requisitioned as referred to in subsection (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment



<p>year—</p> <p>(a) no return of income has been furnished by such other person and no notice under subsection (1) of section 142 has been issued to him, or</p> <p>(b) a return of income has been furnished by such other person but no notice under subsection (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or</p> <p>(c) assessment or reassessment, if any, has been made, before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.]</p>	<p>year—</p> <p>(a) no return of income has been furnished by such other person and no notice under subsection (1) of section 142 has been issued to him, or</p> <p>(b) a return of income has been furnished by such other person but no notice under subsection (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or</p> <p>(c) assessment or reassessment, if any, has been made, before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.]</p>
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66. Turning our gaze firstly upon Section 153A, it becomes pertinent to note that the provision as it stands presently, and at least as it existed on the date of issuance of the impugned notices, regulates assessments pertaining to searches conducted between 31 May 2003 and up to 31 March 2021. The latter terminal point governing the applicability of that provision came to be inserted by virtue of Finance Act, 2021, with effect from 01 April 2021. A similar sunset clause came to be introduced in Section 153C with the addition of sub-section (3) and which prescribed that nothing contained in the aforesaid provision would apply in respect of any search conducted or assets requisitioned



on or after 01 April 2021. The aforesaid amendments appear to have been triggered by the schematic amendments which came to be introduced in Sections 145 to 151 and the procedure for reassessment inquiry being radically amended consequent to the introduction of Section 148A. The time limit for initiation of action also came to be amended with Section 149 being recast. For purposes which may be germane to the present batch, we also take note of the addition of the First and Second Provisos to Section 149 and which are extracted hereunder:-

**“149. Time limit for notice.—**

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Provided that no notice under Section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under Section 148 or Section 153-A or Section 153-C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or Section 153-A or Section 153-C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under Section 153-A, or Section 153-C read with Section 153-A, is required to be issued in relation to a search initiated under Section 132 or books of account, other documents or any assets requisitioned under Section 132-A, on or before the 31st day of March, 2021”

67. The 2021 amendments also saw the introduction of a significant statutory shift insofar as assessments or reassessments triggered by a search were concerned and which came to be made part of the escaped assessment regime by virtue of the introduction of Explanation 2 in Section 148 which reads as follows:-

**“148. Issue of notice where income has escaped assessment**



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Explanation 2.—For the purposes of this section, where,—

(i) a search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132-A, on or after the 1st day of April, 2021, in the case of the assessee; or

(ii) a survey is conducted under Section 133-A, other than under sub-section (2-A) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under Section 132 or under Section 132-A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under Section 132 or Section 132-A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee [where] the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.”

68. Although Section 148A made specific provisions for the assessee being placed on notice and being provided with the opportunity to explain why reassessment should not be initiated and any objections connected therewith being liable to be decided before reassessment was undertaken, reassessments triggered by a search were excluded from the ambit of that provision as would be manifest from a reading of the Proviso to Section 148A and which is couched in the following terms:-



**“148-A. Conducting inquiry, providing opportunity before issue of notice under Section 148.**

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Provided that the provisions of this section shall not apply in a case where, —

(a) a search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132-A in the case of the assessee on or after the 1st day of April, 2021; or

(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under Section 132 or requisitioned under Section 132-A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under Section 132 or requisitioned under Section 132-A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, [relate to, the assessee; or

(d) the Assessing Officer has received any information under the scheme notified under Section 135-A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.”

69. Section 149 of the Act, which sets out the time limit for the issuance of a notice under Section 148, and which prior to 01 April 2021, contemplated of a maximum period of six years having elapsed from the end of the relevant AY, also came to be amended with the following qualifying clauses being introduced:-

**“149. Time limit for notice.—** (1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year



unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—

- (i) an asset;
- (ii) expenditure in respect of a transaction or in relation to an event or occasion; or
- (iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:

70. Section 153(3A) of the Act also introduced the following salient provisions relevant to search assessments:-

**“153. Time limit for completion of assessment, reassessment and recomputation**

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xxxx

xxxx

(3A) Notwithstanding anything contained in sub-sections (1), (1A), (2) and 93), where an assessment or reassessment is pending on the date of initiation of search under section 132 or making of requisition under section 132A, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections shall, -

- (a) in a case where such search is initiated under section 132 or such requisition is made under section 132A;
- (b) in the case of an assessee, to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to;
- (c) in the case of an assessee, to whom any books of a account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to,

be extended by twelve months.”

71. Of equal significance is Section 153(8) and which makes the following provisions:-

**“153. Time limit for completion of assessment, reassessment and recomputation**



XXX

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(8) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A or sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within a period of one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.”

Sub-section (8) thus caters to situations where pending assessment or reassessment proceedings may abate by virtue of Section 153A(1) and be read in line with the timelines prescribed by Section 153B.

72. Reverting then to the principal provisions made in Section 153A and as the provision stands presently, we find that it essentially enables the AO to issue notice to the searched person requiring it to submit a return of income in respect of each AY falling within the six AYs’ as well as for the “*relevant assessment year*”. As noticed hereinabove, all pending assessments or reassessments pertaining to the period of six AYs’ or the “*relevant assessment year*” would abate in light of the Second Proviso to Section 153A(1). The aforementioned provision defines the expression “*relevant assessment year*” in terms of Explanation 1 as under:-

“Explanation 1.—For the purposes of this sub-section, the expression “*relevant assessment year*” shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.”

73. Section 153A(1), in addition to the above, also erects the following additional conditions which must be shown to exist in case a



notice for assessment or reassessment is proposed to be issued for the “*relevant assessment year*” and comprising the larger block of ten AYs’. The aforesaid conditions stand introduced by virtue of the Fourth Proviso which is extracted hereunder:-

**“153A. Assessment in case of search or requisition**

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Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

- (a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;
- (b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and
- (c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.”

The Fourth Proviso thus puts in place certain preconditions which regulate assessment or reassessment for the four additional AYs’ which would fall within the meaning of the expression “*relevant assessment year*” and fall beyond the six AYs’ immediately preceding the AY relevant to the previous year which stands covered by Section 153A(1)(b).

74. Section 153C, as it stood on the date when the impugned notices came to be issued, proceeding along similar lines is statutorily proclaimed to override the provisions of Section 139, 147, 148, 149, 151 and 153. The said provision enables the AO of a non-searched party to commence proceedings for assessment or reassessment for six



AYs' immediately preceding the AY relevant to the previous year in which search is conducted or requisition made and for the "*relevant assessment year*" as defined by Section 153A. The aforementioned provision comes into play the moment the AO of the searched person comes to discover that some money, bullion, jewellery, valuable article or thing seized or requisitioned belongs to or books of account, documents seized or requisition pertain or pertains to a person other than the person searched and covered by Section 153A. The AO of the searched person, on being satisfied that the aforementioned conditions are fulfilled, is obliged to transmit the books of account or documents and assets seized or requisitioned to the AO having jurisdiction over the non-searched person. Upon receipt of that material from the AO of the searched person, the jurisdictional AO of the non-searched party becomes empowered to call upon that person by issuance of notice to submit a return for the preceding six AYs' and for the "*relevant assessment year*". In terms of Section 153C, upon receipt of the material from the AO of the searched person, the jurisdictional AO is obliged in law to be satisfied that the books of accounts or documents or assets seized "*.....have a bearing on the determination of the total income of such other person.....*".

#### **F. IDENTIFICATION OF THE COMMENCEMENT POINT FOR THE PURPOSES OF COMPUTATION OF THE SIX AND TEN YEAR BLOCK**

75. The First Proviso to Section 153C significantly shifts the reference point which is spoken of in Section 153A(1) while defining the point from which the period of six AYs' is to be calculated, and which stipulates it to be the date of search or requisition, to the date of



receipt of books of accounts, documents or assets seized or requisitioned by the jurisdictional AO of the non-searched person. The Proviso, thus by virtue of a deeming legal fiction, shifts the commencement point from the date of initiation of search or making of requisition to the date of receipt of books, documents or assets by the jurisdictional AO of the non-searched person. The shift of the relevant date in the case of a non-searched person thus being governed and regulated by the First Proviso of Section 153C(1) is, however, an issue which is no longer *res integra*. This aspect came to be duly noticed and lucidly explained by our Court in the matter of **SSP Aviation Ltd. v. Deputy CIT**<sup>22</sup>. The relevant extracts of *SSP Aviation Ltd* are set out hereinunder:

“14. Now, there can be a situation when during the search conducted on one person under section 132, some documents or valuable assets or books of account belonging to some other person, in whose case the search is not conducted, may be found. In such case, the Assessing Officer has to first be satisfied under section 153C, which provides for the assessment of income of any other person, i.e., any other person who is not covered by the search, that the books of account or other valuable article or document belongs to the other person (person other than the one searched). He shall hand over the valuable article or books of account or document to the Assessing Officer having jurisdiction over the other person. Thereafter, the Assessing Officer having jurisdiction over the other person has to proceed against him and issue notice to that person in order to assess or reassess the income of such other person in the manner contemplated by the provisions of section 153A. Now, a question may arise as to the applicability of the second proviso to section 153A in the case of the other person, in order to examine the question of pending proceedings which have to abate. In the case of the searched person, the date with reference to which the proceedings for assessment or reassessment of any assessment year within the period of the six assessment years shall abate, is the date of initiation of the search under section 132 or the requisition under section 132A. For instance, in the present case, with reference to the Puri group of companies, such date will be January 5, 2009.

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<sup>22</sup> 2012 SCC Online Del 1898



However, in the case of the other person, which, in the present case, is the petitioner herein, such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of the other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date.”

76. Following *SSP Aviation*, our Court in **Commissioner of Income Tax – 14 v. Shree Jasjit Singh**<sup>23</sup> held:-

“3. The question raised before the ITAT was with reference to the first proviso to Section 153C (1). The ITAT has relied upon the judgment of this Court in *SSP Aviation Ltd. v. Deputy Commissioner of Income Tax (2012) 252 CTR (Del) 291*, which in para 14 held that while in the case of the searched person, the date with reference to which the proceedings for assessment or reassessment of any assessment year within the period of the six assessment years shall abate shall be the date of initiation of the search under Section 132 or the requisition under Section 132A, in the case of the other person (like the Assessee in the present case) "such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of the other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date".

4. Although, the ITAT has also referred to its own decision in the case of *DSL Properties Pvt. Ltd.*, which decision is pending consideration in ITA No. 585 of 2013 in this Court, in which a question of law has been framed, the decision in *SSP Aviation Ltd.* (supra) puts the matter beyond all doubt. In addition, the Court has been shown by learned counsel for the Respondent a circular dated 31st March 2014 issued by the CBDT, containing the guidelines regarding Section 153C of the Act. Para 2.5 of the said circular clarifies as under:

“The AO of the other person assumes jurisdiction under Section 153C with the receipt of the relevant seized material from the AO of the searched person. Also, a copy of the satisfaction received from the AO of the searched person in this regard would enable him to proceed further in the case of the other person under Section 153C.

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<sup>23</sup> Delhi High Court order dated 11.08.2015 in ITA 337/2015



Though there is no statutory requirement for the AO of such other person to record any satisfaction/reason before issuing notice under Section 153C and proceeding further, considering the above aspects, it is advisable for maintaining institutional memory that the AO records receipt of the seized material and the satisfaction from the AO of the searched person and such recording/noting may be kept in the assessment folder of such other person. In case, the AO of the searched person exercises jurisdiction over the other person also, appropriate referencing should be made in the relevant assessment records of such other person.”

5. It may be noted that in the present case satisfaction note was prepared by the AO on 25th February 2010. Consequently, the finding of the ITAT in the present case that the assessment made under Section 143(1) of the Act for the AY 2009-10 was not valid, calls for no interference . No substantial question of law arises in the facts and circumstances of the present case.

6. Accordingly, the appeal is dismissed.”

77. A more elaborate discussion with respect to the significance of the Proviso is found 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 Assessing Officer 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 Assessing Officer of the assessee, on receiving the documents and the assets seized, would have jurisdiction to commence proceedings under section 153C of the Act. The Assessing Officer 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 Assessing Officer has to transfer the seized assets/documents to the Assessing Officer having jurisdiction of the assessee to whom such assets/documents belong. Section 153C(1) of the Act clearly postulates that once the Assessing Officer of a person—other than the one searched, has received the assets or the documents, he is to issue a notice to assess/ reassess the income of such person, that is, the assessee other than the person searched in accordance with the provisions of section 153A of the Act.



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15. The controversy in this regard is no longer res integra. A co-ordinate Bench of this court in SSP Aviation Ltd. v. Deputy CIT (2012) 346 ITR 177 (Delhi) has held that (page 188):

"In the case of the searched person, the date with reference to which proceedings for assessment or reassessment of any assessment year within a period of six assessment years shall abate, is the date of initiation of the search under section 132 or requisition under section 132A. .. However, in the case of other person. .. such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date"

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17. In Pepsi Foods Pvt. Ltd. v. Asst. CIT (2014) 367 ITR 112 (Delhi), this court had explained that on a plain reading of section 153C of the Act, a notice under that section could be issued only after two preceding conditions had been met. First of all, the Assessing Officer of the searched person would have to arrive at a satisfaction that document or asset seized does not belong to the person searched but to some other person and, secondly, the seized documents/assets are handed over to the Assessing Officer having jurisdiction over that person, that is, the person other than the one searched and to whom the seized documents/assets are said to belong. The relevant extract of the said decision is quoted below (page 117):

"On a plain reading of section 153C, it is evident that the Assessing Officer of the searched person must be 'satisfied' that, inter alia, any document seized or requisitioned 'belongs to' a person other than the searched person. It is only then that the Assessing Officer of the searched person can handover such document to the Assessing Officer having jurisdiction over such other person (other than the searched person). Furthermore, it is only after such handing over that the Assessing Officer of such other person can issue a notice to that person and assess or reassess his income in accordance with the provisions of section 153A. Therefore, before a notice under section 153C can be issued two steps have to be taken. The



first step is that the Assessing Officer of the person who is searched must arrive at a clear satisfaction that a document seized from him does not belong to him but to some other person. The second step is—after such satisfaction is arrived at—that the document is handed over to the Assessing Officer of the person to whom the said document 'belongs'. In the present cases, it has been urged on behalf of the petitioner that the first step itself has not been fulfilled. For this purpose, it would be necessary to examine the provisions of presumptions as indicated above. Section 132(4A)(i) clearly stipulates that when, inter alia, any document is found in the possession or control of any person in the course of a search it may be presumed that such document belongs to such person. It is similarly provided in section 292C(1)(i). In other words, whenever a document is found from a person who is being searched the normal presumption is that the said document belongs to that person. It is for the Assessing Officer to rebut that presumption and come to a conclusion or 'satisfaction' that the document in fact belongs to somebody else. There must be some cogent material available with the Assessing Officer before he/she arrives at the satisfaction that the seized document does not belong to the searched person but to somebody else. Surmise and conjecture cannot take the place of 'satisfaction'..

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It is evident from the above satisfaction note that apart from saying that the documents belonged to the petitioner and that the Assessing Officer is satisfied that it is a fit case for issuance of a notice under section 153C, there is nothing which would indicate as to how the presumptions which are to be normally raised as indicated above, have been rebutted by the Assessing Officer. Mere use or mention of the word 'satisfaction' or the words 'I am satisfied' in the order or the note would not meet the requirement of the concept of satisfaction as used in section 153C of the said Act. The satisfaction note itself must display the reasons or basis for the conclusion that the Assessing Officer of the searched person is satisfied that the seized documents belong to a person other than the searched person. We are afraid that going through the contents of the satisfaction note, we are unable to discern any 'satisfaction' of the kind required under section 153C of the said Act."



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19. The Allahabad High Court in the case of CIT v. Gopi Apartment (2014) 365 ITR 411 (All) has expressed a similar view in the following words (page 419):

"A bare perusal of the provision contained in section 153C of the Income-tax 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 the 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.

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."

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24. As discussed hereinbefore, in terms of the proviso to section 153C of the Act, a reference to the date of the search under the second proviso to section 153A of the Act has to be construed as the date of handing over of assets/documents belonging to the assessee (being the person other than the one searched) to the Assessing Officer having jurisdiction to assess the said assessee. Further proceedings, by virtue of section 153C(1) of the Act would have to be in accordance with section 153A of the Act and the reference to the date of search would have to be construed as the reference to the date of recording of satisfaction. It would follow that the six assessment years for which assessments/reassessments could be made under section 153C of the Act would also have to be construed with reference to the date of handing over of assets/documents to the Assessing Officer of the assessee. In this case, it would be the date of the recording of satisfaction under section 153C of the Act, i.e., September 8, 2010. In this view, the assessments made in respect of the assessment years 2003-04 and 2004-05 would be beyond the period of six assessment years as reckoned with reference to the date of recording of satisfaction by the Assessing Officer of the searched person. It is contended by the Revenue that the relevant six assessment years would be the assessment years prior to the assessment year relevant to the previous year in which the search was conducted. If this interpretation as canvassed by the Revenue is accepted, it would mean that whereas in case of a person searched, assessments in



relation to six previous years preceding the year in which the search takes place can be reopened but in case of any other person, who is not searched but his assets are seized from the searched person, the period for which the assessments could be reopened would be much beyond the period of six years. This is so because the date of handing over of assets/documents of a person, other than the searched person, to the Assessing Officer would be subsequent to the date of the search. This, in our view, would be contrary to the scheme of section 153C(1) of the Act, which construes the date of receipt of assets and documents by the Assessing Officer of the assessee (other than one searched) as the date of the search on the assessee. The rationale appears to be that whereas in the case of a searched person the Assessing Officer of the searched person assumes possession of the seized assets/documents on search of the assessee; the seized assets/documents belonging to a person other than a searched person come into possession of the Assessing Officer of that person only after the Assessing Officer of the searched person is satisfied that the assets/documents do not belong to the searched person. Thus, the date on which the Assessing Officer of the person other than the one searched assumes the possession of the seized assets would be the relevant date for applying the provisions of section 153A of the Act. We, therefore, accept the contention that in any view of the matter, assessment for the assessment year 2003-04 and the assessment year 2004-05 were outside the scope of section 153C of the Act and the Assessing Officer had no jurisdiction to make an assessment of the assessee's income for that year.”

78. In the appeal which was taken to the Supreme Court against the judgment rendered by this Court in *Jasjit Singh*, the view as expressed by our Court in that decision came to be affirmed with the following significant observations being entered:-

“8. In *SSP Aviation* (supra) the High Court inter alia reasoned as follows:—

“14. Now there can be a situation when during the search conducted on one person under Section 132, some documents or valuable assets or books of account belonging to some other person, in whose case the search is not conducted, may be found. In such case, the Assessing Officer has to first be satisfied under Section 153C, which provides for the assessment of income of any other person, i.e., any other person who is not covered by the search, that the books of account or other valuable article or document



belongs to the other person (person other than the one searched). He shall hand over the valuable article or books of account or document to the Assessing Officer having jurisdiction over the other person. Thereafter, the Assessing Officer having jurisdiction over the other person has to proceed against him and issue notice to that person in order to assess or reassess the income of such other person in the manner contemplated by the provisions of Section 153A. Now a question may arise as to the applicability of the second proviso to Section 153A in the case of the other person, in order to examine the question of pending proceedings which have to abate. In the case of the searched person, the date with reference to which the proceedings for assessment or reassessment of any assessment year within the period of the six assessment years shall abate, is the date of initiation of the search under Section 132 or the requisition under Section 132A. For instance, in the present case, with reference to the Puri Group of Companies, such date will be 5.1.2009. However, in the case of the other person, which in the present case is the petitioner herein, such date will be the date of receiving the books of account or documents or assets seized or requisition by the Assessing Officer having jurisdiction over such other person. In the case of the other person, the question of pendency and abatement of the proceedings of assessment or reassessment to the six assessment years will be examined with reference to such date.”

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

**10.** This Court is of the opinion that the revenue's argument is insubstantial and without merit. It is quite plausible that without the kind of interpretation which SSP Aviation adopted, the A.O. seized of the materials - of the search party, under Section 132 - would take his own time to forward the papers and materials belonging to the third party, to the concerned A.O. In that event if the date would virtually “relate back” as is sought to be contended by the revenue, (to the date of the seizure), the prejudice caused to the third party, who would be drawn into proceedings as it were unwittingly (and in many cases have no concern with it at all), is dis-proportionate. For instance, if the papers are in fact assigned



under Section 153-C after a period of four years, the third party assessee's prejudice is writ large as it would have to virtually preserve the records for at latest 10 years which is not the requirement in law. Such disastrous and harsh consequences cannot be attributed to Parliament. On the other hand, a plain reading of Section 153-C supports the interpretation which this Court adopts.”

79. The fact that in the case of a Section 153C assessment, the starting point is ordained to be the handing over of books of account or documents or assets seized and that event constituting the point from which the preceding six AYs' or the “*relevant assessment year*” is to be computed stands reiterated by the Supreme Court in *Vikram Sujitkumar Bhatia*, as would be evident from the following paragraphs of the report:-

“41. Thus, as per the proviso to Section 153C as inserted vide Finance Act, 2005, and the effect of the said proviso is that it creates a deeming fiction wherein any reference made to the date of initiation of search is deemed to be a reference made to the date when the Assessing Officer of the non-searched person receives the books of account or documents or assets seized etc. Thus, in the present case, even though the search under Section 132 was initiated prior to the amendment to Section 153C w.e.f. 01.06.2015, the books of account or documents or assets were seized by the Assessing Officer of the non-searched person only on 25.04.2017, which is subsequent to the amendment, therefore, when the notice under Section 153C was issued on 04.05.2018, the provision of the law existing as on that date, i.e., the amended Section 153C shall be applicable.”

80. The aforesaid discussion thus renders a determinative quietus to the identification of the starting post from which the block of six AYs' or the “*relevant assessment year*” would have to be calculated. The contention of the respondents that the said block periods would have to be reckoned with reference to the date of search thus can neither be countenanced nor possibly accepted. That submission is clearly addressed contrary to a long and consistent line of precedents which



have held to the contrary and which unequivocally accepted the point of commencement for the purposes of identifying the six or the “*relevant assessment year*” to be etched from the date of handover of documents, assets or things to the AO of the non-searched party.

81. As was noticed by us hereinabove, the respondents had also sought to urge that the First Proviso to Section 153C(1) is relevant only for the purposes of abatement of pending assessment or reassessment proceedings and which is spoken of in Section 153A(1). According to them, since the First Proviso to Section 153C(1) is linked to the Second Proviso to Section 153A(1), it must be interpreted as being confined and restricted to the subject of abatement and cannot be viewed as constructing the point from which the block of six AYs’ or the “*relevant assessment year*” is to be computed. They had in this connection referred to the judgement rendered by our Court in *Sarwar Agency* and where an identical submission was addressed as would be evident from a reading of paragraph 6 of the report and which reads as follows:

“6. The case of the Revenue is that the first proviso to section 153C refers only to the second proviso to section 153A(1) of the Act, which only indicates that any assessment relating to any assessment year falling within the period of six assessment years which is pending as of the initiation of search shall abate. Therefore, the second proviso to section 153C is also concerned only with the aspect of abatement of pending assessments. According to the Revenue, this makes no difference to the computation of the block of six years preceding the assessment year relevant to the previous year in which the search was conducted. In other words, according to the Revenue, the block period for both the searched person and the "other person" would remain the same notwithstanding that there may be some delay in transmitting the documents recovered during the search which belong or pertain to the "other person" to the Assessing Officer of such other person.”



82. However, the aforesaid submission came to be stoutly negated with the Court relying upon the decision rendered in *RRJ Securities*, which in turn relied upon the decision rendered in *SSP Aviation* as would be evident from the following extracts of that decision:-

“11. Mr. Ashok Manchanda, learned Senior Standing counsel for the Appellant, sought to pursue this Court to reconsider its view in RRJ Securities (supra). The Court declines to do so for more than one reason. First, for reasons best known to it, the Revenue has not challenged the decision of this Court in RRJ Securities (supra) in the Supreme Court. The said decision has been consistently followed by the authorities under this Court as well as by this court. Thirdly, the recent amendment to Section 153 C(1) of the Act states for the first time that for both the searched person and the other person the period of reassessment would be six AYs preceding the year of search. The said amendment is prospective.

12. Consequently, no substantial question of law arises from the impugned order of the ITAT. The appeal is, accordingly, dismissed.”

We thus fail to either fathom or discern any observation rendered in that decision which may be read as lending strength or credence to the contention of the respondents.

83. Reliance was then placed on the decision rendered by a learned Judge of the Madras High Court in *RKM Powergen*. We note that in *RKM Powergen*, the learned Judge while considering the challenge to assessment orders cited certain observations from an earlier order passed by the said High Court and the relevant observations whereof are set out hereunder:

“2. The grounds that have been argued and my conclusions thereupon are as follows:

(i) The bar of limitation: both limbs of this ground have been considered and rejected by me as per orders dated 12-7-2022, 15.07.22 and 26-7-2022, extracted below:



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**26-7-2022:**

11. Reliance is also placed upon two decisions of the Delhi High Court in the case of *CIT v. RRJ Securities Ltd.* and *Pr. CIT v. Sarwar Agency (P.) Ltd.* In both cases the view that the block of six years must be construed as commencing from the date of handing over of the documents seized by the officer of the searched entity to the officer of the third party, that is, petitioner in this case.

12. I am of the considered view that the proviso has no application in the construction of the block period. Section 153C deals with the assessment of income of any other person in relation to the searched person and section 153C(1) reads as under:

Assessment of income of any other person.

153C. (1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates 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, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person [for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in sub-section (1) of section 153A]

13. There is thus an in-built mechanism in 153C(1) as to how the block period is to be formulated. No doubt, the portion within parenthesis has been inserted only with



effect from 1- 4-2017 and has no application in the case of the petitioner seeing as the date of search in its case ranges between 21-3-2015 to 11-1-2016. However, one hardly need to refer this portion, since the construction of the block is detailed in the last portion of section 153C(1) that states 'for the relevant assessment year or years referred to in sub-section (1) of section 153(1).

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15. Thus, the block is to comprise of the those assessment years immediately preceding the assessment year relevant to the previous year in which the search is conducted or requisition is made. Seen in this context, the inclusion of assessment year 2010-11 and 2011-12 in the case of RKM Powergen Limited and 2010-11 in the case of RK Powergen Private Limited is seen to be in order.

16. The first proviso to section 153C only deals with the date of initiation of search for the purpose of the second proviso to section 153A(1) to determine the abatement for the sake of completion....”

84. As would be evident from the above, although the decisions in *Sarwar Agency* and *RRJ Securities* were cited, the learned Judge chose to observe that the Section 153C(1) Proviso would only be liable to be construed as relevant for the purposes of abatement. We find ourselves unable to sustain that line of reasoning since both *Sarwar Agency* as well as *RRJ Securities* have struck a line which is in consonance with the view taken in *SSP Aviation* and which has since come to be affirmed by the Supreme Court in *Jasjit Singh*. In any case, the law as enunciated in *RKM Powergen* would not sustain bearing in mind the express enunciation of the legal position by the Supreme Court as is manifest from a reading of paragraph 9 of *Jasjit Singh*.

85. That then takes us to the principal question of identifying the point of origin for the purposes of computation of the six AYs’ and the “*relevant assessment year*” as defined by Section 153A. As is manifest



from a plain reading of Section 153C, the six AYs' are ordained to be those which immediately precede the AY relevant to the previous year in which the search may have been conducted or requisition made. The block of six AYs' would thus have to be identified bearing in mind the AY pertaining to the FY in which the search had been conducted or requisition made. The aforesaid AY would thus constitute the anchor point for the purposes of identification of the six AYs'. The statute envisages a similar process to be adopted for the purposes of computation of the "*relevant assessment year*" and where applicable constructs a block of ten AYs'. The significant difference between the two however is that while the six AYs' hinge upon the phrase "*immediately preceding*" the AY pertaining to the search year, the ten AYs' are liable to be computed or reckoned from the end of the AY relevant to the year of search. In our considered opinion, the petitioners have correctly identified the aforesaid distinction as being crucial and determinative for the purposes of reckoning the six and the ten AY block period.

#### **G. COMPUTATION OF THE SIX AND TEN YEAR BLOCK IN THE PRESENT BATCH OF WRIT PETITIONS**

86. In the present batch, List I pertains to writ petitions which have Satisfaction Notes recorded or Section 153C notices issued between the period 01 April 2021 to 31 March 2022. Undisputedly, the First Proviso to Section 153C, and which has been consistently recognized to also embody the commencement point for reckoning the six or the ten AYs', shifts the relevant date from the date of initiation of search or a requisition made to the date of receipt of books of account or documents and assets seized by the jurisdictional AO of the non-



searched person. Consequently, the block of six or ten AYs' would have to be reckoned bearing the aforesaid date in mind. Although in the present batch of writ petitions, the date of actual handing over has not been explicitly mentioned in a majority of the writ petitions, learned counsels for respective sides had addressed submissions based on the assumption that it would be the date of issuance of the Satisfaction Note by the AO of the non-searched person and in the case of non-availability of such a note, the date of issuance of the Section 153C notices which would be pertinent for the purposes of the First Proviso to Section 153C.

87. Assuming, therefore, that the handover of material gathered in the course of the search and pertaining to the non-searched person occurred between 01 April 2021 to 31 March 2022, the same would essentially constitute FY 2021-22 as being the previous year of search for the purposes of the non-searched entity. As a necessary corollary, the relevant AY would become AY 2022-23. AY 2022-23 would thus constitute the starting point for the purposes of identifying the six years which are spoken of in Section 153C. The six AYs' are envisaged to be those which immediately precede the AY so identified with reference to the previous year of search. It would thus lead us to conclude that it would be the six AYs' immediately preceding AY 2022-23 which could have formed the basis for initiation of action under Section 153C. Consequently, and reckoned backward, the six relevant AYs' would be:-

<b>Computation of the six-year block period as provided under Section 153C of the Act</b>	<b>No. of years</b>



AY 2021-22	1
AY 2020-21	2
AY 2019-20	3
AY 2018-19	4
AY 2017-18	5
AY 2016-17	6

Consequently, AY 2021-22 would become the first of the six preceding AYs' and would as per the table set out hereinabove terminate at AY 2016-17.

88. Section 153A replicates the basis on which the six AYs' are to be identified and computed with the solitary distinction being that in the case of the searched person, the six AYs' are liable to be computed from the AY pertaining to the FY in which the search was conducted. The starting point for the purposes of identifying the six AYs' in the case of Section 153A would thus turn upon the year of search as opposed to the handover of material which is spoken of in the First Proviso to Section 153C. If one were to therefore assume that a search took place on a person between 01 April 2021 to 31 March 2022, the pertinent AY would become AY 2022-23 and the corresponding six AYs' would be as follows:-

<b>Computation of the six-year block period as provided under Section 153C of the Act</b>	<b>No. of years</b>
AY 2021-22	1
AY 2020-21	2
AY 2019-20	3



AY 2018-19	4
AY 2017-18	5
AY 2016-17	6

89. That takes us then to the issue of identifying the “*relevant assessment year*” for the purposes of computing the ten year block. Explanation 1 to Section 153A specifies the manner in which the entire ten AY period is to be computed. While the computation of six AYs’ follows the position as enunciated and identified above, Explanation 1 prescribes that the ten AYs’ would have to be computed from the end of the AY relevant to the FY in which the search was conducted or requisition made. The ten AY period consequently is to be reckoned from the end of the AY pertaining to the previous year in which the search was conducted as distinct from the preceding year which is spoken of in the case of the six relevant AYs’.

90. Viewed in that light, and while keeping the period of 01 April 2021 to 31 March 2022 as the constant, the relevant AY would be AY 2022-23. The ten AYs’ would have to be computed from 31 March 2023 with the said date indubitably constituting the end of the AY relevant to the previous year of search. Viewed in light of the above, the block period of 10 AYs’ would be as follows:-

<b>Computation of the ten-year block period as provided under Section 153C read with Section 153A of the Act</b>	<b>No. of years</b>
AY 2022-23	1
AY 2021-22	2
AY 2020-21	3



AY 2019-20	4
AY 2018-19	5
AY 2017-18	6
AY 2016-17	7
AY 2015-16	8
AY 2014-15	9
AY 2013-14	10

91. Tested on the aforesaid precepts, it would be manifest that AY 2022-23 would form the first year of the block of ten AYs' and with the maximum period of ten AYs' terminating in AY 2013-14. We, in this regard also bear in consideration the following instructive passages as appearing in the decision handed down by a learned Judge of the Madras High Court in *A.R. Safiullah*. We deem it appropriate to extract the following paragraphs from that decision:-

“9. Explanation-I is clear as to the manner of computation of the ten assessment years. It clearly and firmly fixes the starting point. It is the end of the assessment year relevant to the previous year in which search is conducted or requisition is made. There cannot be any doubt that since search was made in this case on 10.04.2018, the assessment year is 2019-20. The end of the assessment year 2019-20 is 31.03.2020. The computation of ten years has to run backwards from the said date i.e., 31.03.2020. The first year will of course be the search assessment year itself. In that event, the ten assessment years will be as follows :

1 <sup>st</sup> Year	2019-20
2 <sup>nd</sup> Year	2018-19
3 <sup>rd</sup> Year	2017-18
4 <sup>th</sup> Year	2016-17
5 <sup>th</sup> Year	2015-16
6 <sup>th</sup> Year	2014-15
7 <sup>th</sup> Year	2013-14
8 <sup>th</sup> Year	2012-13
9 <sup>th</sup> Year	2011-12
10 <sup>th</sup> Year	2010-11



The case on hand pertains to AY 2009-10. It is obviously beyond the ten year outer ceiling limit prescribed by the statute. The terminal point is the tenth year calculated from the end of the assessment year relevant to the previous year in which search is conducted. The long arm of the law can go up to this terminal point and not one day beyond. When the statute is clear and admits of no ambiguity, it has to be strictly construed and there is no scope for looking to the explanatory notes appended to statute or circular issued by the department.

**10.** In the case on hand, the statute has prescribed one mode of computing the six years and another mode for computing the ten years. Section 153A(1)(b) states that the assessing officer shall assess or reassess the total income of six years immediately preceding the assessment year relevant to the previous year in which search is conducted. Applying this yardstick, the six years would go up to 2013-14. The search assessment year, namely, 2019-20 has to be excluded. This is because, the statute talks of the six years preceding the search assessment year. But, while computing the ten assessment years, the starting point has to be the end of the search assessment year. In other words, search assessment year has to be including in the latter case. It is not for me to fathom the wisdom of the parliament. I cannot assume that the amendment introduced by the Finance Act, 2017 intended to bring in four more years over and above the six years already provided within the scope of the provision. When the law has prescribed a particular length, it is not for the court to stretch it. Plasticity is the new mantra in neuroscience, thanks to the teachings of Norman Doidge. It implies that contrary to settled wisdom, even brain structure can be changed. But not so when it comes to a provision in a taxing statute that is free of ambiguity. Such a provision cannot be elastically construed.

**11.** One other contention urged by the standing counsel has to be dealt with. It is pointed out that the petitioner has invoked the writ jurisdiction at the notice stage. Since the petitioner has demonstrated that the subject assessment year lies beyond the ambit of the provision, the respondent has no jurisdiction to issue the impugned notice. Once lack of jurisdiction has been established, the maintainability of the writ petition cannot be in doubt.

In our considered opinion, the decision in *A.R. Safiullah* correctly expounds the legal position and the interpretation liable to be accorded



to the identification of the ten AYs' which are spoken of in Sections 153A and 153C.

92. List II, forming part of this batch pertains to cases where Satisfaction Notes of the AO of the non-searched person were drawn between the period 01 April 2022 to 31 March 2023 and 01 April 2023 to 31 March 2024. Tested on the principles enunciated by us in the preceding passages of this judgment, we come to the conclusion that the relevant six AYs' would comprise the following years, when computed for the period 01 April 2022 to 31 March 2023:-

<b>Computation of the six-year block period as provided under Section 153C of the Act</b>	<b>No. of years</b>
AY 2022-23	1
AY 2021-22	2
AY 2020-21	3
AY 2019-20	4
AY 2018-19	5
AY 2017-18	6

93. The relevant block of six AYs' when computed for the period of 01 April 2023 to 31 March 2024 would be the following:

<b>Computation of the six-year block period as provided under Section 153C of the Act</b>	<b>No. of years</b>
AY 2023-24	1
AY 2022-23	2
AY 2021-22	3
AY 2020-21	4



AY 2019-20	5
AY 2018-19	6

94. Similarly, and in light of what has been held by us hereinabove, the relevant block of ten AYs' when computed for the period 01 April 2022 – 31 March 2023, and where the Satisfaction Note was drawn by the AO of the non-searched person between those two dates, would be as under:-

<b>Computation of the ten-year block period as provided under Section 153C read with Section 153A of the Act</b>	<b>No. of years</b>
AY 2023-24	1
AY 2022-23	2
AY 2021-22	3
AY 2020-21	4
AY 2019-20	5
AY 2018-19	6
AY 2017-18	7
AY 2016-17	8
AY 2015-16	9
AY 2014-15	10

95. The relevant block of ten AYs' when computed for the period 01 April 2023 – 31 March 2024, with the date of the Satisfaction Note drawn by the AO of the non-searched person falling within that period, would come to be identified as under:

<b>Computation of the ten-year block period as provided under Section 153C</b>	<b>No. of years</b>
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<b>read with Section 153A of the Act</b>	
AY 2024-25	1
AY 2023-24	2
AY 2022-23	3
AY 2021-22	4
AY 2020-21	5
AY 2019-20	6
AY 2018-19	7
AY 2017-18	8
AY 2016-17	9
AY 2015-16	10

96. To recall, the petitions forming part of List I pertain to AYs' 2010-11, 2011-12 and 2012-13. So far as the aforementioned writ petitions are concerned, undisputedly AY 2010-11, 2011-12 and 2012-13 fall beyond the maximum period of ten AYs'. Since the ten AYs', when computed from the end of AY 2022-23 would terminate upon AY 2013-14, AYs' 2010-11, 2011-12 and 2012-13 would clearly fall outside the block period of ten AYs' and cannot legally or justifiably be reopened under Section 153C read with Section 153A of the Act.

97. Proceeding then to List II, we find that the petitions placed in that list pertain to cases where the hand over occurred in FYs 2022-23 and 2023-24. Consequently, the relevant AYs' would be AY 2023-24 and AY 2024-25 respectively. In light of the principles enunciated by us and which explain how the period of six and ten AYs' is liable to be computed, the reopening of assessments pertaining to AYs' 2010-11, 2011-12, 2012-13 and 2013-14 would clearly fall beyond the ambit of



ten AYs' as provided under Section 153C read with Section 153A. We note in this behalf that all of the writ petitions forming part of List II pertain to the aforementioned AYs' 2010-11, 2011-12, 2012-13 and 2013-14.

98. We are therefore of the opinion that the Section 153C notices issued against the writ petitioners placed in List I and insofar as they pertain to AYs' 2010-11, 2011-12 and 2012-13 would not sustain being beyond the "*relevant assessment year*" which could have possibly formed the basis for initiation of action under that provision. Similarly, the Section 153C notices impugned by the writ petitioners placed in List II and insofar as they pertain to AYs' 2010-11, 2011-12, 2012-13 and 2013-14 and which have been found to fall outside the net of "*relevant assessment year*", being the ten year block, would be liable to be set aside on this score alone.

#### **H. THRESHOLDS AS PER THE FOURTH PROVISO OF SECTION 153A**

99. The writ petitioners had also assailed the validity of the notices based on the provisions comprised in the Fourth Proviso to Section 153A. It must at the outset be noted that the amount of INR 50 lakhs which is spoken of in clause (a) of the Fourth Proviso merely constitutes a threshold. Regard must also be had to the fact that at the stage when the AO is issuing notice, it has yet not had the opportunity to undertake a detailed or in-depth examination of the evidence collected or come to a conclusive opinion with respect to the total income which may have escaped assessment. The computation and assessment of the income that is likely to have escaped assessment is at



this particular stage clearly tentative and nebulous. It would therefore and in our considered opinion be incorrect to strike down initiation of action merely because the notice may on an ex facie examination refer or allude to the value of an asset as being less than INR 50 lakhs. This more so when the petitioners call upon the Court to render a verdict based on a mere facial perusal of the Section 153C notice. We are also of the view that it would also perhaps be imprudent to accord a judicial imprimatur to the test as proposed by the petitioners and elevate it to attain the status of an inviolable rule especially when we bear in mind the limited scrutiny of the material that the AO may have had an occasion to undertake at that stage coupled with the fact that the returns of the assessee for the six or the ten AYs' are yet to be received or examined.

100. For this purpose, it is pertinent to note that clause (a) of the Fourth Proviso also uses the phrase “*..income represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years.*” The Legislature appears to have consciously used the expression “*likely to*” bearing in mind the provisional character of the opinion that the AO would have formed at that stage, the fact that returns of the assessee are yet to be received and scrutinised and all of the above contributing to a mere preliminary formation of opinion.

101. However, and at the same time, even if the identified asset at this stage be less than INR 50 lakhs, the AO must on the basis of cogent reasons so recorded be of the opinion that the ultimate computation of escaped assessment is likely to exceed INR 50 lakhs. The aforesaid



satisfaction would have to be based on a valid assessment of the material gathered and the potentiality of the same being indicative of the escaped assessment exceeding INR 50 lakhs. The notice under Section 153C would have to clearly reflect due application of mind by the AO in this respect and be prima facie sustainable. The formation of opinion in this respect would have to be based not on mere *ipse dixit* but reflective of being based on a fair assessment of the quantum of income likely to have escaped assessment as opposed to being speculative and conjectural. In case the AO intends to reopen assessment for the ten year block period, it would have to be shown that the formation of opinion in that respect is referenced to the material obtained in the search and in its possession and the same having the prospect or likelihood of escaped income being pegged at INR 50 lakhs or more. The Fourth Proviso, when interpreted along the lines suggested by us, and which commends acceptance, would strike a just and appropriate balance between the right of the respondents to initiate proceedings on the basis of material gathered in the course of the search and that of the assessee who could assail the reopening of ten assessment years if the prerequisites are not shown to have been met.

102. We are also of the firm opinion that the figure of INR 50 lakhs is not meant to be the qualifying criteria for each of the “*relevant assessment year*” independently. Clause (a) in unambiguous terms uses the expression “*in aggregate in the relevant assessment years*”. Consequently, even if the income likely to have escaped assessment on a cumulative computation be in excess of INR 50 lakhs, the same would qualify the statutory requirements as placed by the Fourth Proviso.



## **I. ISSUE OF FINALITY/CLOSURE FOR AYs' 2010-11 AND 2011-12 AND THE APPLICABILITY OF THE 2017 AMENDING ACT**

103. We then lastly proceed to deal with the challenge which stood raised to the impugned notices, with it being contended that for AYs' 2010-11 and 2011-12, the period for assessment or reassessment when computed in accordance with the permissible period prescribed in Sections 143 and 153 of the Act as well as Sections 148 and 149 having come to an end prior to 01 April 2017, the respondents would stand legally deprived of the authority to invoke Section 153C for the said AYs'. In the alternative, it was also contended by the writ petitioners that for the aforementioned AYs', namely, AYs' 2010-11 and 2011-12, the period of assessment or reassessment under the unamended Section 153C having come to an end prior to 01 April 2017, the respondents would have no jurisdiction to proceed under Section 153C. The latter submission was based on the contention of the petitioners that the extended period of ten AYs' having been introduced by virtue of the 2017 Amending Act would not be applicable to assessments which had attained closure prior to 01 April 2017.

104. The aforesaid submission proceeded in light of the amendments introduced in Sections 153A and 153C by virtue of the 2017 Amending Act and which added the concept of "*relevant assessment year*". Undoubtedly, prior to 01 April 2017, the respondents could have reopened assessments only for six AYs'. It was by virtue of the 2017 Amending Act that the period which could be subjected to Section 153A or Section 153C assessments came to be enlarged to cover ten AYs'. It is also pertinent to note that the concept of a search assessment



now stretching up to ten AYs' was contemporaneously introduced both in Section 153A as well as Section 153C. The submission of the writ petitioners of the amended Section 153C not being applicable proceeds on account of the four additional AYs' which have now become liable to be reassessed. According to the writ petitioners, any assessment which may have attained finality prior to 01 April 2017 and which could not have formed subject matter of assessment or reassessment, either under Sections 153A or 153C or for that matter the other cognate provisions of the Act, would be immune and cannot be subjected to a fresh assessment in accordance with Sections 153A and 153C as they came to exist on the statute book after 01 April 2017. It was in the aforesaid backdrop that the decisions of the Supreme Court in *S.S. Gadgil* and *K.M. Sharma* as well as of this Court in *C.B. Richards Ellis* and *Brahm Dutt* had been cited for our consideration.

105. We, however, find ourselves unable to sustain this leg of the challenge for reasons which are recorded hereinafter. It becomes pertinent to note at the outset that the contention of a bar of limitation operating in respect of assessments or of those proceedings having attained finality proceeds in ignorance of Sections 153A and 153C commencing with a non obstante clause and thus being representative of the legislative intent of those two provisions overriding Sections 139, 147, 148, 149, 151 and 153 of the Act. The non obstante clause which accompanies both those provisions are a manifestation of the clear intent of the Legislature of those provisions and the powers comprised therein being available to be invoked and exercised notwithstanding the fetters and controls placed upon the powers of assessment or reassessment that may otherwise be available to be exercised by virtue



of Sections 139, 147, 148, 149, 151 and 153 of the Act. Sections 153A and 153C thus stand unshackled from the rigours of Sections 147, 148, 149, 151 or 153 of the Act.

106. The fact that Sections 153A and 153C would thus be freed from the restrictive timeframes which are erected by the aforementioned set of provisions would also appeal to logic bearing in mind the undisputed position that assessments or reassessments under Sections 153A and 153C are predicated upon a search. A search by its very nature would be an event unpredictable and unforeseen. It would therefore be wholly illogical to tie down assessments resting upon a search which may be undertaken to the periods of closure prescribed by Sections 147, 148, 149, 151 and 153 of the Act. It becomes pertinent to note that assessments which may be commenced pursuant to material that may be gathered in the course of a search would be wholly unrelated to the statutory timeframes which the Act erects for purposes of submission of returns and completion of assessments. A search assessment power is also clearly distinct and different from a reassessment that forms the subject matter of Sections 147 and 148. The reassessment power which stands comprised in Sections 147 and 148 is based upon the AO being satisfied that income susceptible to tax has escaped assessment. The reassessment power comprised in the aforementioned two provisions is based on information that may fall in the hands of the AO or where it come to form the opinion that income had escaped assessment. In terms of Section 148 as it stands presently, the AO is enabled to initiate reassessment only if it has information that income chargeable to tax has escaped assessment in the case of the assessee for the relevant AY. While under the earlier regime, and as Section 148 stood prior to its



amendment on 01 April 2021, the expression ‘*information*’ had not been specifically defined, the power to reassess rested upon the AO having reason to believe that income chargeable to tax had escaped assessment. The unamended Sections 147 and 148 placed an added fetter upon the AO in cases where reassessment was proposed to be undertaken after the expiry of four years from the end of the relevant AY and the same being qualified by it being found that the assessee had failed to fully and truly disclose all material facts necessary for the purposes of assessment.

107. The amended Section 148 expands the meaning to be assigned to the word “*information*”, as would be evident from Explanation 1 and also incorporates deeming provisions by virtue of Explanation 2 and in cases where the said provisions were to apply, the AO is deemed to have information which suggests that income chargeable to tax had escaped assessment. While admittedly Explanation 2 to Section 148, and more particularly clause (i) thereof, speaks of material gathered in the course of a search being deemed to be information which would be suggestive of income chargeable to tax having escaped assessment, the same in our considered opinion would have no bearing on our conclusion that the finality which is spoken of cannot be a ground which would warrant the amplitude of Sections 153A and 153C being abridged. As was noticed hereinbefore, a search would be an event which would be inherently unfathomable and clearly defy prediction. It would thus be wholly incorrect to conceive of a connection between statutory timeframes which are otherwise embodied in the Act to search assessments.



108. We also find ourselves unable to countenance the submissions based upon the two Proviso's placed in Section 149 for the following reasons. It must at the outset be noted that Section 149 regulates the time within which a notice under Section 148 may be issued. It thus neither ventures nor attempts to regulate the search assessment powers that are available to be invoked in terms of Sections 153A or 153C. Secondly, although the First Proviso (and to the extent that it included a reference to Sections 153A and 153C), came to be introduced by virtue of Finance Act, 2022 [Act 6 of 2022] with retrospective effect from 01 April 2021, the non obstante clause in Sections 153A and 153C was left untouched. Of equal significance is the fact that that Sections 153A and 153C of their own stipulate no period within which a notice initiating search assessment may be issued. We further find that the bar created by virtue of the First Proviso is in relation to Sections 153A and 153C as they stood immediately before the commencement of Finance Act, 2021. The concept of "*relevant assessment year*" and the block of ten AYs' was made part of those provisions way back in 2017 itself and thus formed an integral part of those provisions as on 01 April 2021.

109. Any doubt that could have possibly been harboured is in any case stand dispelled by the Second Proviso to Section 149 and which unambiguously proclaims that the provisions of that sub-section would not apply to searches conducted or requisitions made prior to 31 March 2021. Thus, all searches conducted prior to 31 March 2021 remained unimpacted by the Provisos' placed in Section 149 of the Act. These statutory amendments to Section 149 would have to be read in juxtaposition with Section 153C(3) which brought the curtains down upon search assessments liable to be made in accordance with the



trinity provisions with effect from 01 April 2021. This, since Parliament by virtue of Finance Act, 2021 had merged the original reassessment power as well as those which may be predicated upon a search within the ambit of Section 148 and its family of provisions.

110. The contention with respect to retroactivity would also not sustain in light of the manifest intent of the search assessment power being statutorily intended to be invoked and available to be exercised in respect of all searches conducted between 31 May 2003 and 31 March 2021. This, coupled with the non obstante language embodied in Sections 153A and 153C, in our considered opinion, demolishes the argument of finality and AYs' 2010-11 and 2011-12 being rendered invulnerable. Regard may also be had to the fact that the Fourth Proviso to Section 153A which came to be added contemporaneously with Explanation 1 and the inclusion of the concept of "*relevant assessment year*" in that provision restricted its application to searches conducted on or after 01 April 2017. This again is a clear indication of the legislative intent being to cover all searches conducted after the aforementioned date and no immunity intended to be attached to assessments attaining closure before the said date. There could not, in our considered opinion, be a clearer expression of the legislative will for those provisions having a retroactive application.

111. Although the petitioners sought to draw sustenance from the decision of this Court in *C.B. Richards Ellis*, we find that the reliance placed on the said decision as well as the others cited in its company is clearly misplaced. *C.B. Richards Ellis* in fact holds that the period within which reassessment may be initiated is a matter of procedure and that it is the time period prescribed and prevalent on the date of



issuance of notice which would be applicable. We deem it appropriate to notice the lucid explanation of the legal position which appears in the decision of the Supreme Court in **S.C. Prashar, Income Tax Officer Vs. Vasantsen Dwarkadas**<sup>24</sup> and where the aspect of finality attached to assessments was explained in the following terms:-

“93. The amending Act of 1948 was passed on September 8, 1948, and came into force from March 30, 1948. In some cases it has been hold that its retrospectivity cannot be carried further than March 30, 1948. That is true in one sense but not in the sense how its provisions were to work in relation to the assesseees. The section was meant to enable the issue of notices with a view to re-assessing income which had escaped assessment and allowed the re-assessment of income for back years. It was meant to operate retrospectively for eight years in some cases and four years in others. In our opinion it had retrospective operation in respect of back years according to its own provisions. If the 1948 Amendment could be treated as enabling the Income Tax Officer to take action at any point of time in respect of back assessment years within eight years of March 30, 1948 then such cases were within his power to tax. We have such a case here in CA No. 509 of 1958 where the notice was issued in 1949 to the lady whose husband had remitted Rs 9180 to her from Bangkok in the year relative to Assessment Year 1942-43. That lady was assessable in respect of this sum under Section 4(2) of the Income Tax Act. She did not file a return. If the case stood governed by the 1939 Amendment the period applicable would have been four years if she had not concealed the particulars of the income. She had of course not deliberately furnished inaccurate particulars thereof. If the case was governed by the 1948 Amendment she would come within the eight-year rule because she had failed to furnish a return. Now, we do not think that we can treat the different periods indicated under Section 34 as periods of limitation, the expiry of which grant prescriptive title to defaulting tax-payers. It may be said that an assessment once made is final and conclusive except for the provisions of Sections 34 and 35 but it is quite a different matter to say that a “vested right” arises in the assessee. On the expiry of the period the assessments, if any, may also become final and conclusive but only so long as the law is not altered retrospectively. Under the scheme of the Income Tax Act a liability to pay tax is incurred when according to the Finance Act in force the amount of income, profits or gains is above the exempted. That liability to the State is independent of any

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<sup>24</sup> AIR 1963 SC 1356



consideration of time and, in the absence of any provision restricting action by a time limit, it can be enforced at any time. What the law does is to prevent harassment of assesseees to the end of time by prescribing a limit of time for its own officers to take action. This limit of time is binding upon the officers, but the liability under the charging section can only be said to be unenforceable after the expiry of the period under the law as it stands. In other words, though the liability to pay tax remains it cannot be enforced by the officers administering the tax laws. If the disability is removed or according to a new law a new time limit is created retrospectively, there is no reason why the liability should not be treated as still enforceable. The law does not deal with concluded claims or their revival but with the enforcement of a liability to the State which though existing remained to be enforced. This aspect was admirably summed up by Chakravarti, C.J. (Sarkar, J. concurring) in *Income tax Officer v. Calcutta Discount Co. Ltd.* as follows:

“The plain effect of the substitution of the new Section 34 with effect from 30th March, 1948, is that from that date the Income Tax Act is to be read as including the new section as a part thereof and if it is to be so read, the further effect of the express language of the section is that so far as cases coming within clause (a) of sub-section (1) are concerned, all assessment years ending within eight years from 30th March, 1948, and from subsequent dates, are within its purview and it will apply to them, provided the notice contemplated is given within such eight years. What is not within the purview of the section is an assessment year which ended before eight years from 30th March 1948.”

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95. We come now to the next amendment in 1956. It created a change of a far-reaching character by removing the limit of time for action where the sum likely to be taxed amounted to rupees one lakh or more either for a single year or for a group of years going back to the year ending on March 31, 1941. These cases were governed by the eight-year rule under the 1948 amendment. In other words, the eight-year period was retained for cases involving less than one lakh of rupees and the limit of time was removed for those cases in which the amount involved was one lakh rupees or more. We are not concerned at this moment with the sanctions necessary before action could be taken. That is a separate matter. If no sanction was obtained then the notice would be bad for that reason but not on the ground of a limit of time. What we have said above about the amendment of 1948 applies mutatis mutandis also to the amendment of 1956. That provision was also to operate retrospectively as has been stated by us



earlier. There is good reason to think that this is the correct view because when the Calcutta High Court in the Debi Dutta Moody case held that the 1956 amendment was not applicable to the case, Parliament passed the 1959 Act nullifying that decision. By the same Act, Parliament gave power to issue a notice at any time in all these cases in which the eight-year period under the principal Act as it stood prior to the 1956 Amendment, had expired. The words “at any time” mean what they say. There is no special meaning to be attributed to them. “Any time” thus meant action to be taken without any limit of time. A similar result was reached in certain cases under the 1953 Amendment of the second proviso to sub-section (3) of Section 34. It provided : nothing in the section limiting the time within which any action may be taken shall apply to an assessment or re-assessment made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section already mentioned. This proviso was challenged under Article 14 of the Constitution but that is a different matter. If the section is constitutionally enacted then it also means what it says. It is hardly possible to imagine clearer language than the one used. It says that the limit of time mentioned in Section 34 is removed in certain cases that is to say, action can be taken at any time in these cases. In our judgment, each case of a notice must be judged according to the law existing on the date the notice was issued or served, as the law may require. So long as the notice where the notice is in question, and the assessment, where the assessment is in question, are within the time limited by the law, as it exists when the respective actions are taken, the actions cannot be questioned provided the law is clearly retrospective. The only case in which no further action can be taken is one in which action was not taken under the old law within the period prescribed by that law and which is not also within the period mentioned in the new law if its operation is retrospective. All other cases are covered by the law in force at the time action is taken. It is from these viewpoints that these appeals, in our opinion, should be judged.”

112. As is manifest from the aforesaid passages, the Supreme Court significantly observed that while the statute may not confer a power upon an officer to assess or reopen beyond a particular period of time and the assessment in that sense becoming final and conclusive, that would not justify it being presumed that a corresponding vested right comes to be created in favour of an assessee. It was held that the



assessment would remain conclusive as long as the law is not altered retrospectively or the disability removed.

113. Regard must also be had to the fact that *C.B. Richards Ellis* was a case which was dealing with a situation where the period within which a reassessment action could have been initiated came to be abridged. It was in the aforesaid context that our Court held that it would be the period applicable on the date of issuance of notice which would govern. The aforesaid decision assumes added significance in light of what was observed in para 12 of the report and where the Court laid emphasis on the distinction which must be recognised to exist between a liability to tax under the Act and the right to assess and which may culminate in the creation of a liability coupled with the power to enforce that liability. Although we have extracted the relevant paragraphs of that decision in the preceding parts of this judgment, for the sake of continuity, we deem it apposite to reproduce the following passage from that judgment hereunder:-

“12. Law of limitation does not create any right in favour of a person or define or create any cause of action, but simply prescribes that the remedy can be exercised or availed of by or within the period stated and not thereafter. Subsequently, the right continues to exist but cannot be enforced. The liability to tax under the Act is created by the charging Section read with the computation provisions. The assessment proceedings crystallize the said liability so that it can be enforced and the tax if short paid or unpaid can be collected. If this difference between liability to tax and the procedure prescribed under the Act for computation of the liability (i.e. the procedure of assessment), is kept in mind, there would be no difficulty in understanding and appreciating the fallacy and the error in the primary argument raised by the Revenue. It is a settled position that liability to tax as a levy is normally determined as per statute as it exists on the first day of the assessment year, but this is not the issue or question in the present case. The issue or question in the present case relates to assessment i.e. initiation of re-assessment proceedings and whether the time/limitation for initiation of the re-assessment



proceedings specified by the Finance Act, 2001 is applicable. We are not determining/deciding the liability to tax but have to adjudicate and decide whether the re-assessment notice is beyond the time period stipulated. This is a matter/issue of procedure i.e. the time period in which the assessment or re-assessment proceedings can be initiated. Thus the time period/limitation period prescribed on the date of issue of notice will apply. In our opinion, the answer is clear and has to be in affirmative, i.e. in favour of the assessee.”

114. *C.B. Richards Ellis* thus constitutes a precedent which had clearly recognised that while the liability to tax may continue to exist, if the statutory period within which it could be enforced had come to lapse, the assessment would be conferred finality. The core question which arose for the consideration of the Court was with respect to a matter of procedure and the stipulations of time within which the power to reassess could have been exercised. Similar was the issue which arose in *Brahm Datt*. That too was a decision which was dealing with the validity of reassessment proceedings initiated under Section 148 of the Act. As held by us in the earlier parts of this decision, the reassessment provisions firstly incorporate strict time frames within which alone that power can be invoked. Neither Section 153A nor Section 153C embody a similar restraint. This obviously since those powers would be precipitated by a search, an event which is inherently beset by an element of unpredictability. Secondly, the Legislature has clearly and bearing mind the aforesaid aspect ordained that those two provisions would have overriding effect over the reassessment provisions. It would thus be clearly fallacious to introduce or read the restrictions placed in Sections 147 and 148 into the search assessment provisions with which we are concerned.



115. Sections 153A and 153C are provisions which are triggered by material that may be fortuitously recovered in the course of a search. Both those provisions override and are ordained to operate above and beyond the normal assessment or reassessment provisions. At the time when they were originally introduced in the statute in 2003, they enabled the AO to carry out an assessment exercise stretching over six AYs'. In 2017, the provisions came to be amended and the AO consequently came to be conferred further power to reopen ten AYs'. We have already found that the power to initiate an assessment under Sections 153A and 153C is separate and distinct from the ordinary reassessment provisions comprised in Section 148. Both sets of provisions are intended to operate in separate silos. The power to assess over a larger period of ten years when introduced in the concerned provisions was made subject only to the preconditions comprised in the Fourth Proviso to Section 153A. All that the Legislature deemed appropriate to provide was to restrict the application of that power to searches conducted on or after 01 April 2017 subject of course to the fulfilment of the other stipulations placed in the provisions and the existence of the jurisdictional prerequisites.

116. The very fact that the statute in unequivocal terms provisioned for it to be applicable to all searches conducted or requisitions made post that date is evidence of the manifest legislative intent for it applying to the “*relevant assessment year*” computed in accordance with Explanation 1 placed in Section 153A. The statutory scheme so put in place is representative of the intent of the Legislature to overcome conclusiveness that may attach to a particular assessment when tested on the anvil of the period prescriptions contained in



Section 149 of the Act. We also bear in mind the pertinent observations of the Supreme Court when it had observed that finality which may ordinarily come to imbue an order of assessment does not result in the creation of a corresponding vested right in the assessee. In any case and for reasons aforesaid, we are of the firm opinion that the judgements rendered in the context of Sections 145-151 would not constitute a prudent basis to interpret Sections 153A and 153C insofar as the argument of closure as canvassed by the writ petitioners is concerned. We consequently find ourselves unable to hold in favour of the writ petitioners insofar as this aspect is concerned.

#### **J. DECISION ON ITA 52/2024**

117. Turning then to ITA 52/2024 filed by the Department we find that the impugned order dated 29 July 2022 is assailed on the ground that the ITAT has erred in holding that the computation of the preceding six AYs' would be from the date of receipt of the books of accounts or documents or assets seized or requisitioned by the jurisdictional AO of the non-searched person instead of the actual date of search. Assailing this finding, the Department is in appeal before us and has proposed the following questions of law for our consideration:

“2.1 Whether Ld. ITAT has erred in law by quashing the assessment on the ground that the date of search has to be reckoned from the date when books of accounts or other documents seized have been received by the Assessing Officer of the other person and not in accordance with the date of the search?”

2.2 Whether Ld. ITAT has erred in law by ignoring that the implementation provisions have to be interpreted in accordance with the charging provision and there cannot be any anomalous situation created by the interpretation of the implementation provisions. The provisions under section 153A and 153C of the Act have to be construed in such a harmonious way that there will



not be any different sets of 6 years for reopening of the assessments in case of the person searched and the other person?”

118. Having examined the issue of commencement point for the purposes of computation of the six and the ten year block under Section 153C of the Act in detail in the foregoing paragraphs of this judgment, we find no perversity in the findings recorded by the **Income Tax Appellate Tribunal**<sup>25</sup> while passing the impugned order dated 29 July 2022. We also additionally find that the ITAT committed no error in holding that the 2017 Amending Act would not apply to the facts of the present case since the search was conducted prior to the introduction of the 2017 amendments and consequently the extended ten year block would not apply in the facts of that case. Consequently, no substantial question of law arises in the instant appeal. We see no reason to interfere with the ITAT’s impugned order dated 29 July 2022. The appeal is thus liable to be dismissed.

## **K. SUMMARY OF CONCLUSIONS**

119. We thus record our conclusions as follows:

- A. Prior to the insertion of Sections 153A, 153B and 153C, an assessment in respect of search cases was regulated by Chapter XIVB of the Act, comprising of Sections 158B to 158BI and which embodied the concept of a block assessment. A block assessment in search cases undertaken in terms of the provisions placed in Chapter XIVB was ordained to be undertaken simultaneously and parallelly to a regular assessment. Contrary to the scheme underlying Chapter XIVB, Sections 153A, 153B

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<sup>25</sup> ITAT



and 153C contemplate a merger of regular assessments with those that may be triggered by a search. On a search being undertaken in terms of Section 153A, the jurisdictional AO is enabled to initiate an assessment or reassessment, as the case may be, in respect of the six AYs' immediately preceding the AY relevant to the year of search as also in respect of the "*relevant assessment year*", an expression which stands defined by Explanation 1 to Section 153A. Of equal significance is the introduction of the concept of abatement of all pending assessments as a consequence of which curtains come down on regular assessments.

- B. Both Sections 153A and 153C embody non-obstante clauses and are in express terms ordained to override Sections 139, 147 to 149, 151 and 153 of the Act. By virtue of the 2017 Amending Act, significant amendments came to be introduced in Section 153A. These included, inter alia, the search assessment block being enlarged to ten AYs' consequent to the addition of the stipulation of "*relevant assessment year*" and which was defined to mean those years which would fall beyond the six year block period but not later than ten AYs'. The block period for search assessment thus came to be enlarged to stretch up to ten AYs'. The 2017 Amending Act also put in place certain prerequisite conditions which would have to inevitably be shown to be satisfied before the search assessment could stretch to the "*relevant assessment year*". The preconditions include the prescription of income having escaped assessment and represented in the form of an asset amounting to or "*likely to*



*amount to*” INR 50 lakhs or more in the “*relevant assessment year*” or in aggregate in the “*relevant assessment years*”.

C. Section 153C, on the other hand, pertains to the non-searched entity and in respect of whom any material, books of accounts or documents may have been seized and were found to belong to or pertain to a person other than the searched person. As in the case of Section 153A, Section 153C was also to apply to all searches that may have been undertaken between the period 01 June 2003 to 31 March 2021. In terms of that provision, the AO stands similarly empowered to undertake and initiate an assessment in respect of a non-searched entity for the six AYs’ as well as for “*the relevant assessment year*”. The AYs’, which would consequently be thrown open for assessment or reassessment under Section 153C follows lines *pari materia* with Section 153A.

D. The First Proviso to Section 153C introduces a legal fiction on the basis of which the commencement date for computation of the six year or the ten year block is deemed to be the date of receipt of books of accounts by the jurisdictional AO. The identification of the starting block for the purposes of computation of the six and the ten year period is governed by the First Proviso to Section 153C, which significantly shifts the reference point spoken of in Section 153A(1), while defining the point from which the period of the “*relevant assessment year*” is to be calculated, to the date of receipt of the books of accounts, documents or assets seized by the jurisdictional AO of the non-searched person. The shift of the relevant date in the case of a



non-searched person being regulated by the First Proviso of Section 153C(1) is an issue which is no longer res integra and stands authoritatively settled by virtue of the decisions of this Court in *SSP Aviation* and *RRJ Securities* as well as the decision of the Supreme Court in *Jasjit Singh*. The aforesaid legal position also stood reiterated by the Supreme Court in *Vikram Sujitkumar Bhatia*. The submission of the respondents, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted.

- E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs' would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under Section 153A.
- F. While the identification and computation of the six AYs' hinges upon the phrase "*immediately preceding the assessment year relevant to the previous year*" of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly, Explanation 1 of Section 153A requires us to reckon it "*from the*



*end of the assessment year*”. This distinction would have to necessarily be acknowledged in light of the statute having consciously adopted the phraseology “*immediately preceding*” when it be in relation to the six year period and employing the expression “*from the end of the assessment year*” while speaking of the ten year block.

G. Insofar as the thresholds put in place by virtue of the Fourth Proviso to Section 153A are concerned and the argument of the writ petitioners of the condition of INR 50 lakhs being an unwavering precondition, we find ourselves unable to sustain that submission bearing in mind the indubitable fact that proceedings for search assessment commence upon the issuance of a notice and the AO at that stage having really not had the occasion to undertake a detailed or in depth examination of the evidence collected or come to a definitive opinion with respect to the total income which may have escaped assessment. Since the computation and assessment of income that is likely to have escaped assessment would at this stage be provisional, it would be incorrect to strike down initiation of action on a mere ex facie examination of the Satisfaction Note. We also in this regard bear in mind the Fourth Proviso using the expression “*amounts to or is likely to amount*”. The usage of the phrase “*likely to*” is indicative of the Legislature being conscious of the provisional character of the opinion that the AO may have formed at that stage.

H. However, and at the same time, even if the identified asset at that stage be quantified as less than INR 50 lakhs, the AO must for



reasons to be duly recorded, be of the opinion that the ultimate computation of escaped income is likely to exceed INR 50 lakhs. The aforesaid satisfaction would have to be based on an assessment of the material gathered and the potentiality of the same being indicative of the escaped assessment exceeding INR 50 lakhs. The formation of opinion in this respect would have to be based not on mere ipse dixit but reflective of a fair assessment of the quantum of income likely to have escaped assessment as distinct from mere speculation and conjecture.

- I. We further hold that since the precondition of INR 50 lakhs or more constitutes a sine qua non for initiating action for the extended ten year block, the aforesaid satisfaction and the reasons in support thereof would have to borne out from the Satisfaction Note itself. We are also of the opinion that the precondition of INR 50 lakhs is not liable to be viewed as being the qualifying criteria for each “*relevant assessment year*” that may be thrown open and that the said condition would stand satisfied if the escaped income cumulatively or in the aggregate meets the minimum benchmark of INR 50 lakhs.
- J. The contention of finality and closure addressed with respect to AYs’ 2010-11 and 2011-12 on the basis of the statutory timeframes prescribed for assessment or reassessment and as those provisions stood prior to 01 April 2017 is misconceived, since it proceeds on the assumption that once the period of assessment or reassessment were to come to an end, it would inevitably lead to the creation of a vested right in favour of the assessee. The aforesaid argument proceeds on the incorrect



premise of the reassessment provisions controlling or cabining the power conferred by Sections 153A and 153C. Acceptance of the aforesaid contention would amount to ignoring the plain and evident intent of the Legislature for Sections 153A and 153C operating above and beyond the reassessment powers.

- K. The submission of closure and finality also fails to bear in consideration the indubitable fact that a search is an eventuality which is inherently unpredictable, a circumstance which would defy prophecy and it consequently being wholly irrational to read the time frames pertaining to reassessment as regulating or controlling the period within which an assessment predicated on that event may be initiated. It would be wholly illogical to conceive of a connection between the statutory time frames which are otherwise embodied in the Act and search assessments. In fact the acceptance of this submission would amount to virtually erasing the non obstante clause contained in Sections 153A and 153C.
- L. The legislative intent of those provisions having retroactive application is clearly evidenced from the statute declaring that they would apply to all searches conducted between 31 May 2003 to 31 March 2021, and the Fourth Proviso in unambiguous terms extending the applicability of those provisions to all searches conducted post 01 April 2017 and Sections 153A and 153C superseding the provisions for reassessment, otherwise appearing in the Act.



M. The argument of closure also fails to take note of the accepted distinction between the liability to tax under the Act and the right to assess and enforce a liability created pursuant thereto. While a statute may denude an authority of the power to enforce a liability and in that limited sense conferring finality upon an assessment, the said position would prevail only till such time as that halo of impregnability is not statutorily removed. As was eloquently observed by the Supreme Court, the deprivation of a power to enforce would not lead to the creation of a vested right. As was pertinently observed, the liability to the State exists and operates de hors a consideration of time and in the absence of the statute itself imposing a time limit. The only limitations which are introduced while enacting Sections 153A and 153C was of the period within which the search had been conducted.

#### **L. DISPOSTIF**

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

121. From the petitions placed in List III, we allow WP(C) Nos. 400/2024, 384/2024 and 383/2024 since the impugned notices pertain to AYs' 2010-11, 2011-12 and 2012-13 and thus beyond the maximum block of ten years. However, WP (C) 694/2024 pertains to AY 2016-17 which would fall within the eighth year of the "*relevant assessment year*". The asset which is spoken of in the impugned notice is valued at



INR 25,20,000. While we allow the said writ petition and quash the impugned notice, we accord liberty to the AO to examine whether the income which has allegedly escaped assessment is likely to amount to INR 50 lakhs or more in light of the principles enunciated in this judgment. In case the AO comes to conclude that the initiation of action would meet the prerequisites placed by virtue of the Fourth Proviso to Section 153A as interpreted by us, it would be open to it to commence proceedings afresh if otherwise permissible in law. All other rights and contentions of the petitioner assessee are kept open.

122. ITA 52/2024 shall for reasons aforementioned stand dismissed.

123. All pending applications shall stand disposed of.

**YASHWANT VARMA, J**

**PURUSHAINDRA KUMAR KAURAV, J**

**APRIL 03, 2024**/kk/RW/neha