IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : F : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITAs No.2818/Del/2023
Assessment Year: 2015-16

ITA No.2948/Del/2023
Assessment Year : 2017-18

Rajiv Agarwal, 705/3, Nai Basti, Mehrauli, New Delhi – 110 030. PAN: AAFPA3687G	Vs	ACIT, Central Circle-20, New Delhi.

ITA No.2995/Del/2023
Assessment Year : 2017-18

ACIT, Central Circle-20, New Delhi.	Vs.	Rajiv Agarwal, P-281, ATS Village, Sector 93A, Gejha B.O., Gautam Budh Nagar, Uttar Pradesh – 201 304.. PAN: AAFPA3687G
(Appellant)		(Respondent)

Assessee by	:	Shri Gaurav Jain, Advocate; Ms Bharti Sharma, Advocate & Shri Shubham Gupta, Advocate
Revenue by	:	Shri Javed Akhtar, CIT-DR
Date of Hearing	:	04.12.2024
Date of Pronouncement	:	31.12.2024

ORDER

PER ANUBHAV SHARMA, JM:

ITA No.2818/Del/2023 is the appeal preferred by the assessee against the orders dated 10.08.2023 of the Commissioner of Income-tax (Appeals)-27, New

Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No.CIT(A), Delhi-27/10369/2014-15 arising out of the appeal before it against the order dated 13.12.2021 passed u/s 153C r.w.s. 153A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the ACIT, Central Circle-20, Delhi (hereinafter referred to as the Ld. AO). ITA Nos.2948 & 2995/Del/2023 are cross appeals filed by the assessee and the Revenue, respectively, for AY 2017-18 against the order dated 25.08.2023 Ld. 'FAA') in Appeal No.CIT(A), Delhi-27/11128/2016-17 arising out of the appeal before it against the order dated 31.12.2021 passed u/s 153C r.w.s. 153A of the Act by the AO. The appeals were heard together and the facts wherever relevant have been picked from the AY 2017-18.

2. On hearing both the sides, the facts relevant for adjudication of these appeals are that the assessee is a salaried individual having sources of income from salary and interest on bank deposits during the year under consideration. Return of income u/s 139(1) was filed on 01.08.2017 at an income of Rs. 1,80,51,110/- which was processed u/s 143(1) of the Act.

2.1 A search and seizure action u/s 132(1) of the Act was carried out on 28.06.2016 in Paras Mal Lodha Group of cases. The assessment orders u/s 153A of the Act were passed in the case of Sh. Paras Mal Lodha, an alleged Hawala Operator in December 2019. A satisfaction note was recorded by the AO of the searched person (Central Circle-16, Delhi) on 02.12.2020 and books of account

or seized documents purportedly pertaining to the assessee were received by the Jurisdictional AO of the assessee on 02.03.2021. Thereafter, satisfaction note for issuance of the notice u/s 153C of the Act was recorded by the AO of the assessee on 17.06.2021.

2.2 Ld. Counsel has submitted that satisfaction note recorded for the purpose of section 153C of the Act, is done after the delay of unreasonable period of more than 17 months from the date of completion of assessment in the case of the searched person, Sh. Paras Mai Lodha. The satisfaction was recorded for the AYs 2011-12 to 2017-18 by calculating the six assessment years from the date of search i.e., 28.06.2016, rather than from the date of handing over of the seized documents to the AO of the assessee on 02.03.2021, which would have covered the AYs 2015-16 to 2020-21.

2.3 Notice u/s 153C of the Act for the impugned assessment year was issued to the assessee on 17.06.2021 against which the return of income was filed by the assessee on 15.07.2021 declaring the same income as was declared in the original return of income. Thereafter, notices u/s 143(2) and 142(1) fo the Act were issued which were responded to from time to time. The impugned assessment order was passed u/s 153C r.w.s 153 A of the Act on 31.12.2021, wherein the AO based on the loose sheets referred to in the satisfaction note made the following additions aggregating to Rs 1,19,70,896/- u/s 69A of the

Act, alleging the same as unexplained money routed through Sh. Paras Mal Lodha:

(i) Addition of Rs.65,896/- u/s 69A of the Act based on the loose sheet bearing Annexure A- 10, page no. 3 enclosed on page no. 85 of the PB.

(ii) Addition of Rs.11,00,000/- u/s 69A of the Act based on the loose sheet bearing Annexure A-10, page no. 4 enclosed on page no. 86 of the PB.

(iii) Addition of Rs. 1,00,00,000/- u/s 69A of the Act based on the loose sheet extracted from the digital devices seized from the premises of the searched person bearing Page no. 20(a) enclosed on page no. 89 of the PB.

(iv) Addition of Rs.4,00,000/- u/s 69A of the Act based on the loose sheet extracted from the digital devices seized from the premises of the searched person bearing Page no. 40(c) enclosed on page no. 92 of the PB.

(v) Addition of Rs.4,05,000/- u/s 69A of the Act based on the loose sheet bearing page no.614 enclosed on page no. 93 of the PB.

2.4 Admittedly, out of the aforementioned additions, the ld. CIT(A) vide order dated 25.08.2023 deleted the additions of Rs. 11,00,000/- and Rs. 1,00,00,000/-, as explained at the item nos. (ii) and (iii) respectively, however,

upheld the remaining additions of Rs. 65,896, Rs. 4,00,000, and Rs. 4,05,000, as explained at the item nos. (i), (iv), and (v) respectively.

3. The case made out before us by the ld. Counsel for assessee is that the satisfaction note recorded was a mechanical satisfaction as the same failed specify/demonstrate/mention:

i. the nature of the seized data and the transactions mentioned therein;
ii. to which assessment years the seized data pertained to;
iii. how the seized data belonged to/related to/pertained to the assessee;
iv. how the seized documents had any bearing on the determination of the total income for each assessment year including the impugned AY along with the amount and nature of escaped income culled out for each of the impugned assessment years based on that seized data;
v. the nature, date, amount as well as the parties involved in the impugned transactions referred to in the seized data showing undisclosed income of the assessee;
vi. any other corroborative material in the possession of the AO relating to such impugned transactions.

4. Ld. DR has however relied the orders of ld. Tax authorities.

5. In this regard, we find substance in the contention of ld. Counsel, that Section 153C of the Act, mandates that for initiating the valid proceedings u/s 153C of the Act, recording of clear and positive satisfaction by the Assessing

Officer of the searched person that any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or documents or books of account seized or requisitioned pertains to or any information contained therein relates to a person other than the searched person, is the sine qua non. Further, once the Assessing Officer of the searched person is so satisfied, he is required to transfer the assets or documents, which he believes belong to/pertain to/relate to the other person, to the Assessing Officer having jurisdiction over that other person. Thereafter, the Assessing Officer of the other person after receiving the books/documents/assets has to apply his mind as to whether the assets, books, and documents received have a bearing on the determination of the total income of that other person for the six assessment years preceding the year of search and if he is so satisfied, he has to issue notice and assess or reassess the income of the other person for the six assessment years preceding the year of search in accordance with the provisions of section 153 A of the Act.

6. The interpretation that comes out on a plain reading of the Section is that the recording of satisfaction is a mandatory requirement before the issuance of notice under section 153C of the Act in order to assume jurisdiction to make assessments for the assessment years prescribed in this section. Further, whenever a satisfaction note is drawn by the Assessing Officer of the other person i.e. the Jurisdictional Assessing Officer of the assessee in the present

case, he must necessarily specify the material for each assessment year that belongs to/pertains to/ relates to the other person and also has a bearing on the determination of the total income of the other person for that year. Meaning thereby that whichever year is sought to be reopened out of the six years, the Assessing Officer of the other person must necessarily mention the incriminating material for that year and also must specify how the income declared by the assessee in its return of income under Section 139(1) will be affected and to what extent by virtue of the said incriminating material. It is also a settled law that the recording of satisfaction note is not mere a formality. The satisfaction must reflect an application of mind by the jurisdictional Assessing officer of the other person that he has examined the seized material that belongs to/pertains to/relates to the other person and also state the reasons on the basis of which he reached to a conclusion that the seized material belonging to/pertaining to/relating to the other person, has a bearing on the determination of the total income of such other person. In support of the above contentions, our attention is invited to the decision of Hon'ble High Court of Delhi in case of **Radhey Shyam Bansal 337 ITR 217** whereby it has been held that satisfaction has to be reasonable and objective and not capricious, erratic, irrelevant and imaginative. The satisfaction must reflect rational connection with or relevant bearing between the material available and undisclosed income of the third person. The material itself should not be vague, indefinite, distinct or remote. If there is no rational intangible nexus between the material and the satisfaction

that a third person has 'undisclosed income', the conclusion would not deserve acceptance. In such a case the satisfaction is vitiated. Relevant paras of the aforesaid decision are reproduced below:

> *"21. The word 'satisfaction' has not been defined in the Act. The 'satisfaction' by its very nature must precede before the papers/documents are sent by the Assessing Officer of the person searched to the Assessing Officer of the third person. Mere use or mention of the word 'satisfaction' in the order/note will not meet the requirement of concept of satisfaction as used in section 158BD. The satisfaction has to be in writing and can be gathered from the assessment order, if it is so mentioned/recorded, or from any other order, note or record maintained by the Assessing Officer of the person searched. The word "satisfaction " refers to the state of mind of the Assessing Officer of the person searched, which gets reflected in a tangible shape/form when it is reduced into writing. It is the conclusion drawn or the finding recorded on the foundation of the material available. The word 'satisfied' occurs in many a statute and has its connotation. The term "is satisfied" means simply makes up its mind [per Lord Pearson in Blyth v. Bivth (1966) 1 ALL E.R. 524 (541)]. Dixon, J. has defined it as 'actual persuasion'. It fundamentally means a mind not troubled by doubt or to adopt the language of Smith, J. 'a mind which has reached a clear conclusion' (see Angland v. Payne 1944 N.Z.L.R. 610 (626). The Assessing Officer is satisfied when he makes his mind or reaches a clear conclusion when he takes a prima facie view that the material available establishes 'undisclosed income' of a third party. Assessing Officer must reach a clear conclusion that good ground exists for the Assessing Officer of the third person to initiate proceedings as material before him shows or would establish 'undisclosed income' of a third person. At this stage, as the proceedings are at the very initial state, the 'satisfaction' neither is required to be firm or conclusive. The 'satisfaction' required is to decide whether or not block assessment proceedings are required to be initiated. But 'satisfaction' has to be founded on reasonableness. It cannot be capricious satisfaction. Though, it is a subjective satisfaction. it must be capable of being tested on objective parameters. The opinion though tentative, however, cannot be a product of imagination or speculation. It cannot be spacious or mercurial. It should not be a mere pretence and should be made in good faith rather than suspicion. Reliability, credibility or for that matter what weight has to be attached to the material, depends upon the subjective satisfaction of the Assessing Officer but definitely it is subject to scrutiny whether the satisfaction has a rational nexus or a relevant bearing to the formation of satisfaction and is not extraneous or irrelevant. The satisfaction must reflect rational connection with or relevant bearing between the material available and undisclosed income of the third person. The rational connection postulates and requires satisfaction of the*

Assessing Officer that a third person has 'undisclosed income' on the basis of evidence or material before him. The material itself should not be vague, indefinite, distinct or remote. If there is no rational or intangible nexus between the material and the satisfaction that a third person has 'undisclosed income', the conclusion would not deserve acceptation. Then the satisfaction is vitiated. It is to this limited extent that the satisfaction can be gone into and examined. The satisfaction though subjective, must meet the aforesaid criteria."

7. Attention was also invited to the decision of the Hon'ble Supreme Court in the case of **CIT Vs. Singhad Technical Education Society [2017] 397 ITR 344 (SC)** which held that as per the provisions of Section 153C of the Act, incriminating material which was seized had to pertain to the Assessment Years in question and the documents which were seized must establish co-relation, document-wise, with the Assessment Years which were sought to be reopened u/s 153C of the Act. Relevant paras of the decision are reproduced as under:

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

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

8. Reliance was also placed by the ld. Counsel on the recent decision of the Hon'ble Delhi High Court in the case of **Saksham Commodities Ltd. [2024] 464 ITR 1 (Delhi)[09-04-2024]** wherein it was held that unless the material gathered and recovered is found to have relevancy to the AY which is sought to be subjected to action under Section 153C, it would be legally impermissible for the department to invoke those provisions. Consequently, the AO would be bound to ascertain and identify the year to which the material recovered relates. The years which could be then subjected to action under Section 153C would have to necessarily be those in respect of which the assessment is likely to be influenced or impacted by the material discovered. Section 153C neither mandates nor envisages a mechanical exercise of power. It was also held that it is only once Assessing Officer of non-searched entity is satisfied that material coming into its possession is likely to "have a bearing on determination of total income" that a notice under section 153C would be issued and abatement would thus be a necessary corollary of that notice. Relevant paras of the decision are reproduced hereinunder:

> *"50. What we seek to emphasise is that merely because Section 153C confers jurisdiction upon the AO to commence an exercise of assessment or*

reassessment for the block of years which are mentioned in that provision, the same alone would not be sufficient to justify steps in that direction being taken, unless the incriminating material so found is likely to have an impact on the total income of a particular AY forming part of the six A Ys' immediately preceding the AY pertaining to the search year or for the "relevant assessment year".

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

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55. Take for instance a case where the material gathered in the search is contemplated to have an adverse impact on the declarations and disclosures made by an assessee pertaining only to AYs' 2016-17 and 2017-18. What we seek to emphasise is that pending assessments for those two years could validly form subject matter of action under Section 153C and pending assessments in that respect would surely abate. However, that by itself would not be sufficient to either reopen or issue notices in respect of AYs' prior to or those falling after those two AYs' and which may otherwise fall within the maximum block period of ten years merely because the statute empowers the AO to do so. Unless the material gathered and recovered is found to have relevancy to the AY which is sought to be subjected to action under Section 153C, it would be legally impermissible for the respondents to invoke those provisions. Consequently, the AO would be bound to ascertain and identify the year to which the material recovered relates. The years which could be then subjected to action under Section 153C would have to necessarily be those in respect of which the assessment is likely to be influenced or impacted by the material discovered. Section 153C neither mandates nor envisages a mechanical or an en blanc exercise of power, or to put it differently, one which is uninformed by a consideration of the factors indicated above.

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63. On cm overall consideration of the structure of Sections 153A and 153C, we thus find that a reopening or abatement would be triggered only upon the discovery of material which is likely to "have a bearing on the determination of the total income" and would have to be examined bearing in mind the AYs' which are likely to be impacted. It would thus be incorrect

to either interpret or construe Section 153C as envisaging incriminating material pertaining to a particular AY having a cascading effect and which would warrant a mechanical and inevitable assessment or reassessment for the entire block of the "relevant assessment year".

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

9. Ld. Counsel has also relied the following decisions for the aforesaid proposition:

(i) RRJ Securities 380 ITR 612(Delhi HC) [Paras 31 & 38]:

"31. Insofar as the documents referred to as pages 126 to 179 of Annexure A-34 is concerned, admittedly, the same only consisted of a single page of the record slip of a cheque book and other pages were blank. The record slip only contained three entries
reflecting issue of three cheques on 11th August, 2008, 27th August, 2008 and 10th December, 2008 respectively. Thus, it is apparent that the said document had no relevance for the assessment years in Question i.e. AYs 2003-04 to 2008-09. In the circumstances, the issue to be addressed is whether proceedings under Section 153C of the Act could be initiated on the basis of this document.

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

38. As indicated above, in the present case, the documents seized had no relevance or bearing on the income of the Assessee for the relevant assessment years and could not possibly reflect any undisclosed income. This being the undisputed position, no investigation was necessary. Thus, the provisions of section 153C, which are to enable an investigation in respect of the seized asset, could not be resorted to; the AO had no jurisdiction to make the reassessment under Section 153C of the Act."

(ii) Hon'ble High Court of Delhi in case of Index Securities Pvt. Ltd. [2017] (86 taxmann.com 84) [04.09.2017] [Paras 31 & 32]:

"31. As regards the second jurisdictional requirement viz., that the seized documents must be incriminating and must relate to the AYs whose assessments are sought to be reopened, the decision of the Supreme Court in Sinhgad Technical Education Society (supra) settles the issue and holds this to be an essential requirement. The decisions of this Court in RRJ Securities and ARN Infrastructure India Ltd. v. Asstt. CIT 12017] 394ITR 569/81 taxmann.com 260 (Delhi) also hold that in order to justify the assumption of jurisdiction under Section 153 C of the Act the documents seized must be incriminating and must relate to each of the AYs whose assessments are sought to be reopened. Since the satisfaction note forms the basis for initiating the proceedings under Section 153 C of the Act, it is futile for Mr Manchanda to contend that this requirement need not be met for initiation of the proceedings but only during the subsequent assessment.

32. In the present case, the two seized documents referred to in the Satisfaction Note in the case of each Assessee are the trial balance and balance sheet for a period of five months in 2010. In the first place, they do not relate to the AYs for which the assessments were reopened in the case of both assessees. Secondly, they cannot be said to be incriminating. Even for the AY to which they related, i.e. AY2011-12, the AO finalised the assessment at the returned income qua each Assessee without making any additions on the basis of those documents. Consequently even the second essential requirement for assumption of jurisdiction under Section 153 C of the Act was not met in the case of the two Assessees"

(iii) Hon'ble Delhi High Court in case of ARN Infrastructure India Ltd.

[2017] 394 ITR 569 (Delhi)[Paras 17,18 & 19]:

"17. As regards the other document seized, and mentioned in the Satisfaction Note viz., the extract of the ledger account maintained by the Petitioner concerning the payments of commission made by it to RGEPL. even if it is held to 'belong' to the Petitioner, it could hardly be said to be an 'incriminating document. This was a document relevant only for the AY 2010-11. It could not have been used for re-opening the assessments of the earlier years i.e. AYs 2007-08 to AY 2009-10, 2011-12 and 2012-13. This position again stands settled by the decision in RRJ Securities Ltd (supra). The fact that the Revenue's SLP against the said decision is vending in the Supreme Court does not make a difference sine the operation of the said decision has not been stayed.

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

19. The net result is that neither of the documents mentioned in the Satisfaction Note could have formed a valid basis for the AG to initiate proceedings against the Petitioner under Section 153 C of the Act for AY 2010-11 or any of the other years as proposed. "

(iv) Hon'ble High Court of Delhi in case of Refam Management Services Pvt. Ltd. [2016] 386 ITR 693 (Delhi):

"It is apparent from the above that the only document seized during the search in question was a cheque book pertaining to the Assessee which reflected issue of cheques during the period August 2008 to October 2008, relevant to the AY 2009-10. The facts and the questions of law that arise in these appeals are similar to the facts and the controversy involved in RRJ Securities Ltd. (supra). Thus, for the reasons stated in RRJ Securities Ltd. (supra), the third question framed, whether the proceedings under Section 153C of the Act could be initiated against the Assessee, is answered in favour o the Assessee and against the Revenue."

(v) PCIT Vs N.S. Software (Firm); [2018] 93 taxmann.com 21 (Delhi HC)[Para 7, 24, 25]

(vi) The Hon'ble High Court of Delhi in case of Pepsi Foods Pvt. Ltd. Vs. ACIT (52 taxmann.com 220)

(vii) Satkar Fincap Ltd. Vs ACIT; [2016] 66 taxmann.com 107 (Delhi - Trib.) [Para T. and 23]

(viii) The Hon'ble Delhi Tribunal in the case of Green Range Farms (P.) Ltd. v. DCIT [2018] 96 taxmann.com 249 (Delhi - Trib.)[13-07-2018]

10. Ld. Counsel contended that since in the case of present assessee the Id. AO failed to meet the above mentioned jurisdictional requirements while recoding satisfaction note i.e.,, Establishing connection/nexus between the seized documents and undisclosed income for each assessment year including the impugned assessment year and demonstrating as to how the seized

documents had bearing on the determination of total income of the assessee, the assumption of jurisdiction u/s 153C was invalid and therefore the notice u/s 153C and consequent assessment proceedings and assessment order passed for the impugned assessment year deserve to be quashed.

11. In the aforesaid context, when we examine the facts of the case, what immediately strikes is that the satisfaction note recorded by the AO of the searched person u/s 153C of the Act, copy of which is available at pages 72-77 of the paper book, when read along with the satisfaction note recorded by the AO of the appellant u/s 153C of the Act, the copy of which is available at pages 78-82 of the paper book, the two are similar in content. The narration of facts of search and seizure operation, details of documents allegedly pertaining to the assessee are mirror images except for the fact that in the satisfaction note recorded by the AO of searched person, the said AO uses the words that the allegedly the seized documents 'pertain' to a person other than the person searched and the AO of the assessee before us record the satisfaction that the documents pertain to an information contained in the said documents 'related' to Shri Rajiv Agarwal, i.e., a person other than the person searched u/s 132 of the Income-tax Act, 1961.

11.1 It is very apparent from the two satisfaction notes before us that none of the alleged incriminating documents has been examined or the contents of these documents analysed in a manner to show that how these alleged documents

have any bearing on the determination of total income of the assessee ***for a particular year*** for which the reassessment was initiated by issuance of notice u/s 153C r.w.s. 153A of the Act. It will be beneficial here to reproduce the concluding part of the satisfaction note for issue of notice u/s 153C of the Act recorded by the AO of the assessee:-

> *"On making further enquiry on ITD/e-filing portal, it is also noticed that the assessee filed ITR for A.Y. 2011-12 to 2017-18 which does not commensurate with the transactions entered into the assessee. Therefore, the transactions need to be verified. After examining the documents and perusing the ITR of the assessee, I am satisfied within the meaning of section 153C r.w.s. 153A and 158BD of the Act that the documents have bearing on the determination of total income of Sh. Rajiv Aggarwal (PAN: AAFPA3687G) for A.Y. 2011-12 to 2017-18.*
>
> *Hence, notices u/s 153C r.w.s. 153A is being issued to the assessee for A.Y. 2011-12 to 2017-18."*

12. In the case of **Canyon Financial Services Ltd. Vs. ITO [399 ITR 202]** the Hon'ble Delhi High Court has held that where satisfaction notes recorded by Assessing Officer of assessee and Assessing Officer of searched person were identically verdict carbon copy proceeding could not be initiated against assessee u/s 153C of the Act. While holding so the Hon'ble High Court held as under:

> *"19. As a result, the Court holds that the satisfaction note prepared by the AO of the searched person does not fulfil the legal requirement spelled out in Section 153C(1) of the Act. The satisfaction note of the AO of the Assessee, being a carbon copy of the satisfaction note of the AO of the searched person also fails to fulfil the jurisdictional requirement. No reasons are recorded for the identical conclusion in either satisfaction*

note that the seized documents mentioned therein belong not to the searched person but to the Assessee."

13. The situation in the present case also identical. Both the satisfactions recorded by the Assessing Officer of the searched person as well as the assessee or almost identically worded and in fact the Assessing Officer merely relied on the satisfaction note recorded by the Assessing Officer in the searched person. Therefore, the ratio of the decision of the Jurisdictional High Court in the case of Canyon Financial Services Pvt. Ltd. Vs. ITO (supra) applies in the circumstances of the facts of the case.

14. In continuity of the above, when we examine the notice u/s 142(1) of the Act dated 26.11.2021, copy of which is available at pages 8-29, we find that the AO of the appellant before us has done a good homework while raising queries for the assessment year 2017-18 trying to examine the documents individually and their alleged bearing on the determination of the total income of the assessee. When the satisfaction notes are compared with the notice u/s 142(1) of the Act along with the annexure having analysis of the seized material, it appears that at the time of assumption of jurisdiction by way of recording the satisfaction, the AO of the assessee before us had not applied his mind while issuing the notice on 17.06.2021 and it was only while issuing notice under sub-section (1) of section 142 of the Act, the analysis of the documents was done. Thus, in regard to the appeals of the assessee, we find substance in the ground No.1 as raised before us. Thus, the ld.CIT(A) has erred in law by not

appreciating that the impugned assessment orders in both the years were based on illegal assumption of jurisdiction on the basis of satisfaction note which was recorded without application of mind and quite in a mechanical manner. The reasons do not demonstrate how the nature of seized material has bearing on the total income of the assessee and to which assessment year particularly. The satisfaction note does not reflect any rational connection with or relevant bearing on the alleged seized material and the alleged undisclosed income of the assessee for a particular year sought to be assessed. Thus, we are inclined to allow the ground No.1 in the appeals filed by the assessee and, **consequently, allow the appeals of the assessee with consequential effects and the appeal of Department is dismissed**.

Order pronounced in the open court on 31.12.2024.

Sd/-	Sd/-
(S. RIFAUR RAHMAN) ACCOUNTANT MEMBER	(ANUBHAV SHARMA) JUDICIAL MEMBER

Dated: 31st December, 2024.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi