***THE HON'BLE SRI JUSTICE SUJOY PAUL**
AND
***THE HON'BLE Dr. JUSTICE G. RADHA RANI**

+ WRIT PETITION Nos.44891 AND 44915 OF 2022

% 09-01-2025

Rapiscan Systems Pvt. Limited, rep. by Authorised Representative

...Petitioner

vs.

$ ADIT (INT.TAX)-2, Aayakar Bhawan, Opp: L.B.Stadium, Basheer Bagh, Hyderabad and Others

... Respondents

!Counsel for the Petitioners: Ms. Ananya Kapoor.

^Counsel for Respondents: Sri Vijhay K Punna, learned Senior Standing Counsel for Income Tax Department.

<Gist :

>Head Note :

? Cases referred

1. W.P.(C).15381 of 2022, dated 30.01.2024
2. [2023] taxmann.com 258 (Bombay)
3. [2024] 160 taxmann.com 536 (Madras)
4. (2023) 453 ITR 230
5. (2023) 453 ITR 224
6. (2023) 453 ITR 233
7. (2022) 1 SCC 12
8. 2003 (3) SCC 485
9. (2003) 2 SCC 111
10. 1992 (4) SCC 711
11. (2022) 449 ITR 517

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD
* * * *

WRIT PETITION Nos.44891 AND 44915 OF 2022

Between:

Rapiscan Systems Pvt. Limited, rep. by
Authorised Representative

...Petitioner

vs.

ADIT (INT.TAX)-2, Aayakar Bhawan, Opp: L.B.Stadium,
Basheer Bagh, Hyderabad and Others

... Respondents

JUDGMENT PRONOUNCED ON:09.01.2025

THE HON'BLE SRI JUSTICE SUJOY PAUL
AND
THE HON'BLE Dr. JUSTICE G. RADHA RANI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? :

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? :

3. Whether His Lordship wishes to see the fair copy of the Judgment? :

_____
SUJOY PAUL, J

_____
Dr. G.RADHA RANI, J

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HON'BLE Dr. JUSTICE G. RADHA RANI

WRIT PETITION Nos.44891 AND 44915 OF 2022

COMMON ORDER *(per Hon'ble SP,J)*:

Regard being had to the similitude of the questions involved, on the joint request of the parties, the matters were analogously heard and decided by this common order.

2. The facts are taken from W.P.No.44915 of 2022. As per the facts narrated by the petitioner, it is a foreign company based on Singapore having branch office and project office in India. The petitioner is engaged in distribution and installation of security and inspection systems (equipment) such as airport security x-ray machines and metal detectors to its customers in India. The petitioner is a distribution company and does not manufacture/develop the equipment and does not have its own IP as well.

3. These Writ Petitions filed under Article 226 of the Constitution take exception to the final assessment order dated 30.08.2022 (first assessment order) issued without DIN. In addition, the final assessment order dated 01.09.2022 is also

called in question on the singular ground that both the orders are barred by limitation.

4. In W.P.No.44915 of 2022, the assessment year is 2018-19, whereas in W.P.No.44891 of 2022, the assessment year is 2019-20.

5. The petitioner filed its revised income tax return for Assessment Year 2018-2019 on 31.03.2019. Thereafter, the petitioner was selected for scrutiny assessment. Accordingly, a notice dated 22.09.2019 was issued under Section 143(2) of the **Income Tax Act, 1961** (Income Tax Act) followed by certain more notices and questionnaires issued under Section 142(1) of the Income Tax Act. The petitioner has filed acknowledgment of return of income for Assessment Years 2018-2019 and 2019-2020 (Annexure P-1). It is pleaded that the petitioner, by different responses mentioned in paragraph No.8 of Writ affidavit pursuant to aforesaid notices, submitted all the necessary information along with the relevant documents to respondent No.1 for scrutiny assessment.

6. In turn, respondent No.1 completed the assessment in petitioner's case and passed the draft assessment order dated

27.09.2021 for Assessment Year 2018-19 proposing additions in this regard. The petitioner filed its objection before Dispute Resolution Panel (DRP). The DRP passed its direction/order dated 30.06.2022 and declined relief to the petitioner.

7. The respondents issued final assessment order on 30.08.2022 along with computation sheet, demand draft and penalty notice dated 30.08.2022. Pertinently, the aforesaid documents do not bear any DIN.

Contentions of the petitioner:

8. Ms. Ananya Kapoor, learned counsel for the petitioner, by taking this Court to Section 144C(13) of Income Tax Act, submits that the statute prescribes a time limit within which assessment order could be passed. Along with I.A.No.1 of 2024, the document dated 30.01.2024 (Annexure P-18), is filed which shows that the directions of DRP were complied with. Heavy reliance is placed on document dated 05.03.2024 to highlight that the DRP's directions dated 30.06.2022 were uploaded on ITBA portal on 30.06.2022. The physical copy of said direction was also sent to assessing officer on 30.06.2022 through speed post. For the same purpose, the document dated 30.06.2022 (Annexure P-19) is relied upon. Since the date of uploading of order and date of order i.e.,

30.06.2022 is same, it is argued that the order for all practical purposes came to the notice of the assessing officer on 30.06.2022. Thus, as per Section 144C(13) of the Income Tax Act, the assessment order could have been passed on or before 31.07.2022. In the instant case, the impugned order is passed on 30.08.2022, and therefore, the same is barred by law and liable to be set aside.

9. The facts of W.P.No.44915 of 2022 are that the objections before DRP were filed on 26.10.2021, the DRP issued directions on 30.06.2022. The DRP informed on 05.03.2024 that its directions were uploaded on the portal on 30.06.2022 itself, it is evident from ITBA portal letter which is placed on record with I.A.No.1 of 2024 in W.P.No.44915 of 2022. Thus, in this case also, the last date to pass final assessment order was 31.07.2022.

10. To bolster the aforesaid submission, learned counsel for the petitioner placed reliance on the Delhi High Court judgment in **Louis Dreyfus Company India Private Limited v. Deputy Commissioner of Income Tax**[1], Bombay High Court Judgment in **Vodafone Idea Ltd. v. Central Processing Centre**[2] and Madras

[1] W.P.(C).15381 of 2022, dated 30.01.2024
[2] [2023] taxmann.com 258 (Bombay)

High Court judgment in **Taeyang Metal India (P) Ltd. v. Deputy Commissioner of Income-Tax**[3]. In addition, she placed reliance on Section 13 of the **Information Technology Act, 2000** (I.T.Act) and the **E-Assessment Scheme, 2019** (Scheme) (Annexure P-25). The singular contention advanced by learned counsel for the petitioner is that once the originator/sender of DRP has uploaded its order on the portal, the originator has lost control over it and it is uploaded on the same day on the portal. Thus, as per aforesaid statutory provision, scheme and above judgments of three High Courts, it shall be presumed that the assessing officer came to know about the order of DRP on 30.06.2022 itself. Thus, as per Sub-Section 13 of Section 144C of the Income Tax Act, he could have passed the assessment order by 31.07.2022. The order passed beyond that period is illegal and unsustainable.

Contention of Revenue:

11. Sri Vijhay K Punna, learned Standing Counsel for the revenue, submits that the order of DRP was received only on 05.07.2022 through web mail. Reliance is placed on the said mail communication dated 05.07.2022 (Annexure A) filed with the additional counter. Furthermore, on the basis of averments of the

[3] [2024] 160 taxmann.com 536 (Madras)

counter, it is submitted that the question of violation of time limitation prescribed under Section 144C(13) of the Income Tax Act as stated by the petitioner in the additional affidavit is not acceptable for the following reasons:

(i) The intimation letter for order under Section 144C(5) dated 30.06.2022 is not uploading the directions of DRP but the generation of DIN only. The entire order/directions of DRP were reflected in ITBA on 05.07.2022. Thus, there is a gap between what is uploaded, processed by system and reflected to the assessing officer. The circumstances and these gaps in system, have been appreciated by ITAT, Delhi in a recent judgment in the case of **Haier Appliances (P) Ltd** in ITA No.1521/Del/2022 dated 20.09.2024.

(ii) Hon'ble Supreme Court in the case of **National Faceless Assessment Centre v. Automotive Manufacturers Pvt.Ltd.[4], DCIT v. Abacus Real Estate Pvt Ltd[5]** and in the case of **Addl.CIT v. Multiplier Brand Solutions Pvt Ltd[6]** held that the revenue should be given time to take corrective measures for updation of learned DRP order by the assessing officer who has to physically apply his mind and pass an order in accordance with the provisions of Section 144 C (13) of the Act.

(iii) Unless, the assessing officer who has to act upon the order of the learned DRP receives the order, he/she would not be in a position to even know about the passing of the order by the learned DRP. Hence, it cannot be expected by the AO to act upon an order which has not even been received by him.

(iv) In the instant case, intimation of DRP received in ITBA and also by mail on 05.07.2022 to the assessing officer and the final order has been passed on 30.08.2022 which

[4] (2023) 453 ITR 230
[5] (2023) 453 ITR 224
[6] (2023) 453 ITR 233

is well within the time limit allowed under Section 144 C (13) of the Income Tax Act. As per the provisions of Section 144 C (13) of the Act, the assessing officer is required to pass final assessment order within one month from the end of the month in which such direction is received.

(v) Reliance is placed on the judgment of the Supreme Court in the case of **Commissioner of Income Tax v. Mohammed Meeran Shahul Hameed**[7] in C.A.No.6204 of 2021 dated 07.10.2021 wherein the Supreme Court explained as to what is 'receipt' and what is 'made' as per the provisions of the Act. The provisions of the Act reads that upon 'receipt' of the directions issued under sub section (5)…, the assessment has to be completed within one month from the end of the month in which such directions is 'received'.

12. Lastly, Sri Vijhay K Punna placed reliance on the judgment of the Supreme Court in the case of **National Faceless Assessment Centre** (supra), which is followed in other judgments. He also placed reliance on judgment in the case of **Commissioner of Income Tax, Chennai** (supra) to bolster the submission that language of the statute should be given effect to and when plain language leads to only one conclusion, there is no reason to deviate from such meaning.

FINDINGS:

13. Before dealing with rival contentions, it is apposite to consider Sections 144C(13) and 282(1)(c) of the Income Tax Act and Section 13 of the I.T. Act which reads thus:

[7] (2022) 1 SCC 12

"**Section 144C: Reference to dispute resolution panel:-**

(1) to (12)…

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained insection 153 or section 153B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received."

"**Section 282: Service of notice generally:-**

(1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,—

(a) and (b)…

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000); or"

"**Section 13: Time and place of despatch and receipt of electronic record.:-**

(1) Save as otherwise agreed to between the originator and the addressee, the **despatch** of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, **the time of receipt** of an electronic record shall be determined as follows, namely:-

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,-**(i)receipt occurs at the time when the electronic record enters the designated computer resource;** or(ii)if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee."

(Emphasis Supplied)

14. The E-Assessment Scheme, 2019 placed reliance on Section 13 of the I.T. Act for the purpose of delivery of electronic record. The relevant portion reads thus:

"**Delivery of electronic record:**

10. (1) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the assessee, by way of:-

(a) placing an authenticated copy thereof in the assessee's registered account; or
(b) sending an authenticated copy thereof to the registered email address of the assessee or his authorized representative; or
(c) uploading an authenticated copy on the assessee's Mobile App; and

followed by a real time alert.

(2) and (3) xxx

(4) The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of Section 13 of the Information Technology Act, 2000 (21 of 2000)."

(Emphasis Supplied)

15. The Delhi High Court in **Louis Dreyfus Company India Private Limited** (supra) held as under:

"15. In terms of sub-section (13) of Section 144C of the Act, the AO is mandated to complete the assessment —in conformity with the directions as framed by the DRP. That very provision commands the AO to complete the assessment within one month from the end of the month in which such a direction is received.

17. As is manifest from a reading of sub-section (13) of Section 144C of the Act, the AO is not accorded any discretion in the framing of an order of assessment once directions have come to be framed by the DRP. In fact, the provision requires the AO to frame an order of assessment in conformity with those directions and without providing any further opportunity of hearing to the assessee. This principle of law has been affirmed by the Bombay High Court in the aforenoted paragraphs of Vodafone Idea and in Shell India Markets Private Limited v. Additional Commissioner of Income Tax Officer, National Faceless Assessment Centre & Ors10. The relevant paragraph of the decision in Shell India are extracted hereinbelow:

> '10. Sub-section (13) of Section 144C, therefore, is very clear inasmuch as the Assessing Officer shall, upon receipt of the directions issued under sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the Assessing Officer can complete the assessment without providing any further opportunity of being heard to the assessee. This means that the moment the Assessing Officer receives the directions under sub-section (5), he has to straightaway complete the assessment and he does not even have to hear the assessee. The Assessing Officer shall simply comply with the directions received from the DRP within one month from the end of the month in which such direction is received.'

20. Undisputedly, the directive of the DRP came to be uploaded on the ITBA portal on 24 June 2022. It is additionally stated to have been dispatched through Speed Post to the third respondent (TPO) and the fourth respondent (Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, New Delhi) on 27 June 2022. It is thereafter that the TPO appears to have passed the order dated 25 July 2022.

21. We, however note that paragraph 4(2) of the E-as, 2019 makes the following salient provisions:-

> '4(2). All communication among the assessment unit, review unit, verification unit or technical unit or with the assesse or **any other person** with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this Scheme shall be through the National e-assessment Centre.'

> 22. It is thus manifest that as per the provisions of E-as, 2019, all orders, notices and decisions have to be necessarily uploaded on the ITBA portal and as part of the larger faceless assessment regime which now holds the field. The uploading of the directive of the DRP on the ITBA portal would thus constitute valid and sufficient service and the period of limitation as prescribed in Section 144C(13) of the Act would be liable to be computed bearing that crucial date in mind. Once the aforesaid position becomes clear, it is evident that the order of assessment, if at all could have been framed lastly by 31 July 2022. There has thus been an abject failure on the part of the first respondent to comply with the mandatory timelines as incorporated in the aforenoted provisions. Accordingly, the writ petition is liable to be allowed and the impugned order of assessment and the consequential penalty proceedings are thus liable to be set aside on this short score alone."
>
> (Emphasis Supplied)

16. The Bombay High Court in **Vodafone Idea Ltd.** (supra) opened as under:

> "15. Annexed to the affidavit of Mr. Satish Sharma is a screenshot of the CHN-Case History Notings of the Dispute Resolution Panel proceedings uploaded on the Income-tax Business Application portal. The screenshot is of the page as it appears on the Income-tax Business Application portal. A perusal of the screenshot of Case History Notings of the Dispute Resolution Panel read with the affidavit filed by Mr. Satish Sharma, the Chief Commissioner of Income-tax and Ms. Anne Varghese, the Joint Commissioner of Income-tax, clearly indicate that once the DRP directions are uploaded and the Document Identification Number ("DIN") is generated, which is also visible on the first page of the hard copy of the DRP directions, the said document is visible to the AO of the Faceless Assessment Unit ("FAU") having jurisdiction over the permanent account number of the assessee concerned. Thus, both the affiants agree that the Dispute Resolution Panel directions once uploaded on the Income-tax Business Application portal are automatically visible to the Faceless Assessing Officer, if any assessment work item is pending related to a particular permanent account number. Admittedly assessment proceedings of the petitioner were pending. Thus, undoubtedly the Dispute Resolution Panel directions uploaded on the Income-tax Business Application

portal were readily and clearly visible and accessible to the Faceless Assessing Officer of the assessee.

16...

17. Mr. Singh made all attempts to persuade us that despite the Income-tax Business Application portal displaying the Dispute Resolution Panel directions and the same being accessible to the Faceless Assessing Officer, it was only on August 23, 2023, that the same were received by the Faceless Assessing Officer. We cannot accept this because, the E-assessment Scheme itself provides that all communication is **deemed to have been received** by the assessment units concerned once received through the National e-Assessment Centre. **Thus, once the e-assessment Centre is in receipt of the Dispute Resolution Panel directions, the period of limitation runs from that day. There is no requirement of a deep dive in an analysis of the phrase "upon receipt of directions" as it appears in section 144C(13) of the Act.** The fundamental principle of interpretation is to assign words their natural, original and precise meaning, provided that the words are clear and take into account the purpose of the statute. It is settled law that a provision should be interpreted in its literal sense and given its natural effect. This is the elementary golden rule of interpretation of statutes. Since there is no ambiguity pertaining to the phrase "upon receipt of the directions issued under sub-section (5) of section 144C of the Act, the Assessing Officer shall. . ." there is no requirement of delving in a further in-depth analysis of the clear provision.

18 to 20...

21. Thus, if the provisions of section 144C as mandated by the statute are not strictly adhered to the entire object of providing for an alternate redressal mechanism in the form of Dispute Resolution Panel stand defeated. That is not the intention of the Legislature when the provision was introduced in the Act. Section 144C(10) of the Act provide that the directions of Dispute Resolution Panel are binding on the Assessing Officer. By failing to pass any order in terms of the provision, the Assessing Officer cannot be permitted to defeat the entire exercise and render the same futile. When a statute prescribes the power to do a certain thing in a certain way, then the thing must be done in that way and other methods of performance are forbidden. Once the statute has prescribed a limitation period

> for passing the final order, it is expected that the internal procedure of the Department should mould itself to give meaning to and act in aid of the provision. Any procedural defect (there is none in this case) in the internal mechanism of the working of E-assessment Scheme, cannot operate against the interest of the assessee. Hence, the Faceless Assessing Officer cannot be believed that the Dispute Resolution Panel direction was received by him only on August 23, 2023 despite being uploaded on the Income-tax Business Application portal on March 25, 2021. The failure on the part of Department to follow the procedure under section 144C of the Act is not merely a procedural irregularity, but is an illegality and vitiates the entire proceeding."

17. The Madras High Court in **Taeyang Metal India (P) Ltd.** (supra) followed the principle laid down by the Delhi High Court in the aforesaid judgment.

18. The common string traveling through the judgments of the aforesaid three High Courts leaves no room for any doubt that the Courts have taken a uniform view that Section 144C(13) mandates the assessing officer to complete the assessment within one month from the end of the month in which such a direction is issued. Interestingly, the Bombay High Court considered paragraph No.4(2) of Scheme of 2019 which makes it clear that *all communications* among the assessment unit, review unit, verification unit or technical unit or with the assessee or with *any other person* shall be through the national e-assessment centre. The use of words 'any other person' makes it very wide and shows the intention of the scheme makers that they intended to bring

within its fold all nature of communications which shall be made through national e-assessment centre.

19. The Delhi High Court in **Louis Dreyfus Company India Private Limited** (supra) further held that it is obligatory under the scheme to necessarily upload the communication on the ITBA portal. Upon uploading the information on the portal, the period of limitation as prescribed under Section 144C(13) of the Income Tax Act would be liable to be computed bearing that crucial date in mind.

20. Importantly, the Bombay High Court in **Vodafone Idea Ltd.** (supra) poignantly held that as per the said scheme once e-assessment centre is in receipt of DRP directions, the period of limitation runs from that date. No further deep dive is required in view of language of Section 144C(13) of the Income Tax Act.

21. Sri Vijhay K Punna, learned Standing Counsel for revenue, placed reliance on the judgment of Supreme Court in the case of **National Faceless Assessment Centre** (supra). The said case is arising out of faceless assessment procedure envisaged in Section 144B of the Income Tax Act. The Apex Court while upholding the view of the High Court observed that faceless assessment scheme

came into being recently and therefore, the revenue ought to have been given some leverage to correct themselves and take corrective measures. The said observation of the Supreme Court is related to the faceless regime and cannot be stretched and made applicable in this case. This is trite that the precedential value of a judgment relates to the point which has been actually decided and not what is logically flowing from it (see **Dr. (Mrs.) Chanchal Goyal v. State of Rajasthan**[8]). It is equally settled that a singular different fact or point may change the precedential value of a judgment (see **Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd.**[9]).

22. So far, the judgment in the case of **Commissioner of Income Tax, Chennai** (supra) is concerned on which reliance is placed by Sri Vijhay K Punna, it is profitable to note that in the said case, the Supreme Court considered Section 263(2) of the Income Tax Act, in the said Section the word used is 'made' and not 'receipt of the order'. The Supreme Court emphasized the cardinal principle of the law that provision of statute is to be read as it is and nothing is to be added or taken away from the provision of the statute. In other words, this is well settled that

[8] 2003 (3) SCC 485
[9] (2003) 2 SCC 111

when language of statute is clear and unambiguous, it has to be given effect to irrespective of its consequences (see **Nelson Motis vs. Union of India**[10]).

23. The pivotal question is whether in view of the language employed in Section 144C(13) whether directions of DRP can be said to be received by the assessing officer on 30.06.2022. A conjoint reading of Section 144C (5) and (13) makes it clear that *upon receipt of directions* issued under Section 144C(5), it is imperative for assessing officer to complete the proceedings within one month from end of the month in which such a direction is received. Thus, key words used in Section 144C(13) are 'upon receipt of directions issued under Sub-Section (5)'

24. Although, Delhi, Bombay and Madras High Courts have already taken a view and we respectfully agree with that once such directions of DRP are uploaded on the portal, the DRP lost control over it and date on which it entered the portal, the recipient i.e, the assessing officer comes to know about it.

25. To elaborate, it is profitable to refer to Section 13(1) of the I.T.Act. This Sub-Section deals with 'despatch of electronic record'

[10] 1992 (4) SCC 711

and envisages that 'despatch' of an electronic record is when it enters the computer resource outside the control of originator. Indisputedly, in this case, the 'originator' is the DRP. Sub-Section (za) of Section 2 of the I.T.Act defines the word 'originator' and reads thus:

> "**Section 2: Definitions**
>
> (za) —originator means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;"
>
> (Emphasis Supplied)

26. Once 'originator' enters a computer resource outside his control, 'despatch' takes place. Sub-Section 2 (a) of Section 13 of the I.T.Act deals with 'receipt' which makes it clear that 'receipt' occurs *at the time* when the electronic record enters the designated computer resource. Thus, the meaning of 'despatch' or 'receipt' is elaborately defined in aforesaid Sub-sections of Section 13 of the I.T.Act. The word 'computer resource' is also defined under Section 2(k) of the I.T.Act, which reads thus:

> "**Section 2: Definitions**
>
> (k) — computer resource means computer, computer system, computer network, data, computer data base or software;"

27. In the instant case, parties have taken a diametrically opposite view on the aspect whether the directions uploaded on

the portal on 30.06.2022 can be treated to be 'receipt' on the part of the assessing officer. Sri Vijhay K Punna, learned Standing Counsel for revenue contends that 'receipt' will be the date when the e-mail was received by the revenue containing the DRP directions i.e., on 05.07.2020.

28. As per the view taken by the aforesaid three High Courts there is no doubt that when the originator/DRP sends its directions in computer resource outside its control, it amounts to 'despatch' and similarly, 'receipt' takes place when said electronic record enters the computer resource.

29. Section 282 of the Income Tax Act on which reliance was placed by Sri Vijhay K Punna, learned Standing Counsel for revenue makes it clear that in Sub-Section 1(c) of Section 282, the communication through electronic record as per Chapter IV of the I.T.Act was recognized and treated to be service of notice generally. Chapter IV of the I.T.Act contains Section 13, which envisages time, place of 'despatch' and 'receipt' of electronic record.

30. In order to meticulously examine the aspect of 'despatch' and 'receipt', in the present case, it is apt to quote the relevant

portion of letter dated 05.03.2024 filed along with I.A.No.1 of 2024 in the present matter, which reads as under:

> "2. In this regard, it is hereby stated that the direction dated 30.06.2022 were uploaded on ITBA portal on 30.06.2022. Further, physical copy of the Directions was also sent to the Assessing Officer on 30.06.2022 through Speed Post."
>
> (Emphasis Supplied)

31. The Income Tax Department through communication dated 30.06.2022 (Annexure P-19) informed that the order under Section 144C(5) dated 30.06.2022 is having Document No.(DIN) ITBA/DRP/M/144C(5)/2022-23/1043689612(1). This is a system generated document and it does not require any signature. A conjoint reading of communications dated 30.01.2024 and 05.03.2024 (Annexure P-18) and communication dated 30.06.2022 (Annexure P-19) leaves no room for any doubt that DRP's directions were despatched on 30.06.2022 and also uploaded on the portal on the same date. Thus, the DRP/originator had lost control over it on the date and time the said directions were uploaded on the portal. Hence, same must be treated to be a 'receipt' by the recipient i.e., the assessing officer on the same day i.e., 30.06.2022. (See paragraph No.26.7 of **Suman Jeet Agarwal v. Income-tax Officer**[11], where the Delhi

[11] (2022) 449 ITR 517

High Court poignantly held that the portal of the department is the 'computer resource in the control of the department').

32. In view of forgoing discussion, there is no cavil of doubt that assessing officer received the DRP's directions on 30.06.2022 and therefore, the limitation must be counted from that date and not from 05.07.2022. The impugned assessment orders dated 30.08.2022 and 01.09.2022 that were issued counting the limitation from 05.07.2022 in both the Writ Petitions are liable to be set aside as the same are issued beyond permissible period of limitation.

33. In the result, both the Writ Petitions are **allowed** by setting aside the impugned assessment orders dated 30.08.2022 and 01.09.2022. There shall be no order as to costs. Miscellaneous applications, if any, shall stand closed.

SUJOY PAUL, J

Dr. G. RADHARANI, J

09th January, 2025.

Note:
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B/o.TJMR/GVR