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

% *Judgment delivered on: 18.02.2025*

+ W.P.(C) 11156/2023 & CM APPL. 43353/2023 (STAY)

SHIV PARKASH BANSALPetitioner

Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE-14 DELHI & ORS.Respondents

Through: Mr. Vipul Agrawal, SSC.

55

+ W.P.(C) 11157/2023 & CM APPL. 43356/2023 (INTERIM
RELIEF)

SHIV PARKASH BANSALPetitioner

Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL
CIRCLE-14, DELHI & ORS.Respondents

Through: Mr. Vipul Agrawal, SSC.

56

+ W.P.(C) 11185/2023 & CM APPL. 43544/2023 (INTERIM
RELIEF)

SHIV PARKASH BANSALPetitioner

Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.

versus



DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE-14 DELHI & ORS.Respondents
Through: Mr. Vipul Agrawal, SSC.

57

+ W.P.(C) 11192/2023 & CM APPL. 43557/2023 (INTERIM RELIEF)

SHIV PARKASH BANSALPetitioner
Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.
versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE-14 DELHI & ORS.Respondents
Through: Mr. Vipul Agrawal, SSC.

58

+ W.P.(C) 11193/2023 & CM APPL. 43559/2023 (INTERIM RELIEF)

SHIV PARKASH BANSALPetitioner
Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.
versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE-14 DELHI & ORS.Respondents
Through: Mr. Vipul Agrawal, SSC.

59

+ W.P.(C) 11194/2023 & CM APPL. 43561/2023 (INTERIM RELIEF)

SHIV PARKASH BANSALPetitioner
Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.
versus



DEPUTY COMMISSIONER OF INCOME TAX CENTAL
CIRCLE-14 & ORS.Respondents
Through: Mr. Vipul Agrawal, SSC.

60

+ W.P.(C) 11197/2023 & CM APPL. 43566/2023 (INTERIM
RELIEF)

SHIV PARKASH BANSALPetitioner

Through: Mr. Ruchesh Sinha and Mr.
Prakash Sinha, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTAL
CIRCLE-14 DELHI & ORS.Respondents
Through: Mr. Vipul Agrawal, SSC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G M E N T

YASHWANT VARMA, J. (Oral)

1. The writ petitioners by way of the present petitions seek to assail the initiation of action under Section 153C of the **Income Tax Act, 1961**¹. The individual writ petitions pertain to **Assessment Years**² details whereof are set forth hereinbelow: -

WPC No.	A.Y.
11156/2023	2015-16
11157/2023	2017-18

¹ Act

² AYs



11185/2023	2019-20
11192/2023	2016-17
11193/2023	2021-22
11194/2023	2020-21
11197/2023	2018-19

2. The petitioner's solitary ground of challenge to the initiation of action under Section 153C proceeds on the premise that the material gathered had no correlation or connection with the individuals who were subjected to the search. They would thus contend that in the absence of the evidence gathered being pertinent or relevant to the persons named in the search authorization, the commencement of action under Section 153C against the writ petitioners would not sustain.

3. For the purposes of appreciating the challenge which stands raised, we deem it apposite to take note of the following essential facts.

4. On 28 December 2020, a search action is stated to have been undertaken by the respondents. In terms of the warrant of authorization, we find that the same was drawn in the names of Mr. Ajay Jain, Mr. Saurabh Jain, Mr. Mahesh Goyal, Mr. Manoj Sehgal and Mr. Fakir Chand. The petitioners seek to lay stress on the panchnama of the said proceedings being confined to the searched persons, namely, Mr. Ajay Jain, Mr. Saurabh Jain, Mr. Mahesh Goyal, Mr. Manoj Sehgal and Mr. Fakir Chand.



5. During the course of that search operation, premises numbered as ND-8, Pitampura, Delhi was also included. These were premises which belonged to the writ petitioners. In the course of the search of those premises, the respondents are stated to have unearthed cash amounting to INR 18,00,000/-, jewellery and other material as also a locker held in the name of Mr. Shiv Prakash Bansal (one of the writ petitioners before us) maintained in the Pitampura Branch of the Punjab National Bank.

6. On 06 October 2022, a notice under Section 153C came to be issued to the writ petitioner for AY 2015-16. For the purpose of commencement of action under the aforementioned provision, the **Assessing Officer**³ of the petitioner is stated to have drawn the following Satisfaction Note: -

“Satisfaction Note drawn for initiation of proceedings u/s 153C of the IT Act, 1961 in the case of Sh. Shiv Prakash Bansal (PAN:AAIPB3264F) for the AY 2015-16 to 2021-22

1. A search and seizure action under section 132(1) of the Income Tax Act was carried out in the case of Shiv Prakash Bansal, Saurabh Gupta, Mahesh Goyal, Manoj Sehgal, Fakir Chand & Others at the premises situated at ND-8, Pitampura, Delhi - 110034 on 28.12.2020. It was found that Shiv Prakash Bansal S/o Sh. RN Bansal R/o - ND-8, Pitampura, Delhi - 110034 having PAN AAIPB3264F, was engaged in huge cash transactions and handling of unaccounted cash. The suspicions were substantiated from the evidences found and seizure during the course of the search action.

2. During the course of search at the above said premises, cash and jewellery, incriminating documents in the form of digital evidences in the form of whatsapp chats and excel sheets such as "SKY" and "BANK" containing cash transactions pertaining to Shiv Prakash Bansal were found and seized. The same are discussed in the

³ AO



following paragraphs:

3. During the course of Search & Seizure action at the premises situated at ND-8, Pitampura, Delhi - 110034, cash amounting to Rs. 20,54,600/- was found from the residence of Sh. Shiv Prakash Bansal. He was given an opportunity to explain the source of the said cash and to substantiate the same. However, he was unable to explain the source, or to justify how the cash came to be found from the premises. Consequently, an amount of Rs.18,00,000/- was seized from the premises and deposited in the PD account and statement of Sh. Shiv Kumar Bansal was recorded. Further, during the course of post search enquiries, statement of Sh. Shiv Kumar Bansal was again recorded on 17-06-21 wherein he was again failed to offer any explanation to the source of the cash seized during the course of the search action.

4. Further, during the course of Search & Seizure action at the premises situated at ND-8, Pitampura, Delhi – 110034, jewellery valued at Rs. 1,22,44,522/- was found and during the operation of lockers jewellery valued at Rs. 57,90,589/- was found from the lockers. In all, total jewellery amounting to Rs. 1,80,35,111/- was found in the possession of the assessee and his family members viz his wife, his two sons and two daughter-in-laws, his unmarried daughter, his mother, his grandson and two granddaughters. As per the calculation made in accordance with directions of the CBDT dated 1st December 2016, jewellery of 254.69 grams with a value of Rs. 12,33,576/- was found to be in excess of the threshold provided for release by the Board. The assessee was given an opportunity to explain the source of the remaining jewellery during the course of the search on 30.12.2020.

4.1 The assessee was given another opportunity to explain the source of jewellery amounting to Rs. 1,80,35,111/- during the course of the lifting of restraint at the residence on 19.02.2021. However, he was not able to satisfactorily explain the source thereof, and hence the said jewellery amounting to Rs. 12,33,576/- was seized.

5. Further, during the course of search 16 GB SanDisk Pen Drive (Annexure- A1) pertain and relate to Sh. Shiv Prakash Bansal was found and seized. This pen drive contains 10 number of excel sheets containing details of financial transactions (as part of a workbook). The sheet wise nature of the details recorded is as follows:

- (i) SKY - Details of date wise cash inflow and outflow



referring to the name of the parties from whom cash has been received and to whom cash has been paid.

(ii) BANK – Details of date wise fund inflow and outflow from different parties in two bank accounts namely Amit Industries and K.G Cool Enterprises.

(iii) DJ- Noting of transaction with 'DJ' - receipt of amounts from 'DJ' on different dates.

(iv) AB Exp- Petty expenses of office.

(v) AB - Record of transactions on 26-09-2020.

(vi) Nikhil JP - Transactions on 03-06-2020 and 04-06-2020.

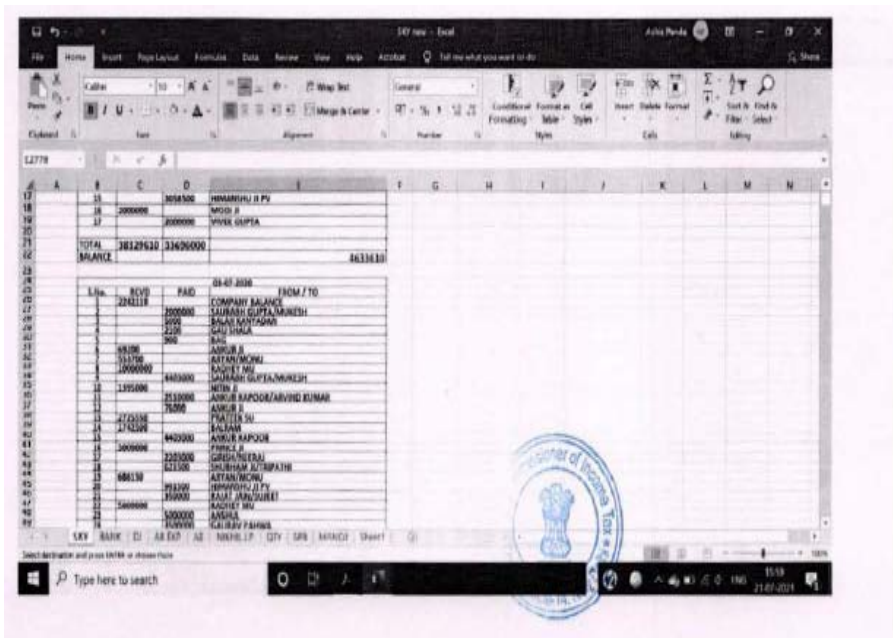
(vii) QTY - Some transaction, details of which are not present in the sheet.

(viii) SPB- Petty expenses with the heading 'Uncle Ji'.

(ix) Manoj - Petty expenses with the remark 'Sandeep ji'.

(x) Sheet 1 -Record of salary disbursement in the month of November, 2020.

5.1 Out of these work sheets, major details are recorded in two sheets. One sheet named 'SKY' mentioned at (i) above contains date wise and party wise entry of cash transactions and the other sheet named 'Bank' mentioned at (ii) above contains transactions among the parties, in the nature of RTGS or other mode of bank transfer. A sample sheet from 'SKY' is presented below:-



Date	RCVD	PAID	FROM / TO
17		305700	HIMANSHU B PV
18	200000		MOODI J
20		200000	YOGESH GUPTA
21		200000	
22		200000	
23		200000	
24		200000	
25		200000	
26		200000	
27		200000	
28		200000	
29		200000	
30		200000	
31		200000	
32		200000	
33		200000	
34		200000	
35		200000	
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37		200000	
38		200000	
39		200000	
40		200000	
41		200000	
42		200000	
43		200000	
44		200000	
45		200000	
46		200000	
47		200000	
48		200000	
49		200000	
50		200000	
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93		200000	
94		200000	
95		200000	
96		200000	
97		200000	
98		200000	
99		200000	
100		200000	

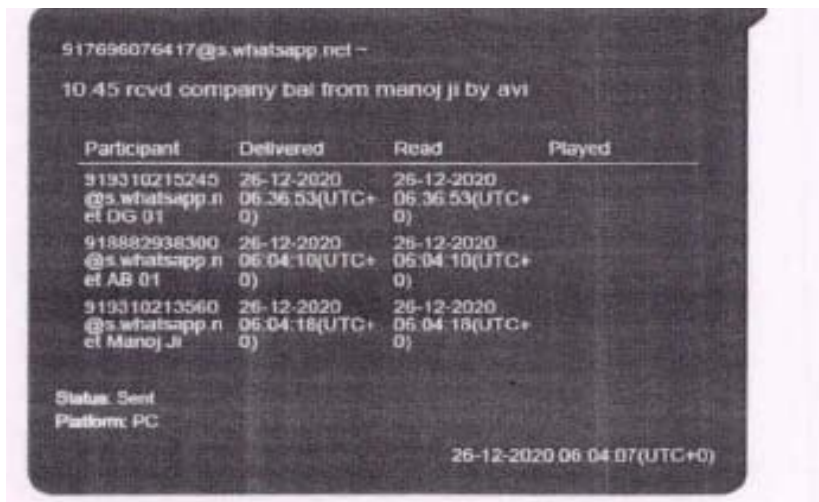
5.2 The 'RCVD' column contains the entries of cash received and



the 'PAID' column contains the entries of cash paid. 'FROM/TO' column contains the corresponding parties from whom either cash has been received or to whom cash has been paid.

5.3 The entries for transactions have been maintained partywise and date wise by Shiv Prakash Bansal. Transactions from 1-07-2020 to 28-12-2020 (date of search) have been recorded in this Sheet named 'SKY'. For the entire period, quantum for each name in the 'FROM/TO' column was calculated as part of the post search enquiries and was tabulated in order to arrive at party wise quantum of transactions.

5.4 Further, certain mobiles phones belonging to family members as well as staff working at the premises of the Shiv Prakash Bansal had also been cloned as digital evidences. A mobile named 'Huawei Y7 prime' was seized from one Amber Madan and the cloned data was annexured as A13. Amber Madan is an employee of Shiv Prakash Bansal who maintains record in the excel workbook 'SKY' as per the direction of Shiv Prakash Bansal. It was found from the data of the said phone that **there was a whatsapp group named 'Office' with members Ankur Bansal, DG, Manoj and Amber Madan.** Ankur Bansal is the son of Shiv Prakash Bansal. DG and Manoj are the employees of Shiv Prakash Bansal as admitted by him in his statement dated 30-06-2021. In the group, transactions recorded in SKY worksheet have been discussed. Sample screenshot of the transactions is presented below.



5.5 The details in the whatsapp chat as shown in the above screenshot was tallied with the contents of the sheet SKY for the same date. It was found that the same transactions were entered in



the work sheet as shown below –

26-12-2020			
S.No.	RCVD	PAID	FROM / TO
1	1045000		COMPANY BALANCE
2	8326480		COMPANY BALANCE
3		5000	OFFICE EXP./NEW MOBILE/AVI
4		1700	DIVYANSHU JI/AVI
5		4200	EKADASHI
6		1200	OFFICE EXPENSES/POLYTHENES
7		5733600	BHATIA JI
8		400000	RAJAT JAIN
9		950550	ARVINDER JI
10	532500		ANKUR KAPOOR
11		39100	GOYAL TRAVELS
12		5000	OFFICE EXP.
TOTAL	9903980	7140350	
BALANCE			2763630

5.6 It was thus established beyond doubt that the entries made in the excel sheet not only belonged to Shiv Prakash Bansal but also that the same were actual transactions and could not be claimed as otherwise as was being claimed by Shiv Prakash Bansal during the course of the search action.

5.7 Further, during the course of the post search, statement of Sh. Shiv Prakash Bansal was again recorded under oath u/s 131 on 22-06-2021. In the statement, Sh. Bansal admitted that the pen drive and other annexures forming part of the Panchnama dated 30-12-21 seized from his premises at address ND-8, Near Darbari Lal School, Pitampura, Delhi-34 belonged to him, and the transactions contained therein pertained to his business and commercial activities. The same admission has also been made by his son, Ankur Bansal and his employee, Amber Madan in their statements recorded. Further, the assesees were shown the excel sheet named SKY and the entries contained therein and was asked to explain the same. In his reply he has stated that the entries pertain to record of cash transaction in respect of his business in agricultural commodities. The excerpt of his statement is presented below:-

Q.22 What kind of data do you enter & store in the said Red SanDisk Pen Drive?

Ans. I majorly maintain data related to my transactions in



Agricultural Commodities & Cryptocurrencies in an excel workbook stored in the Pen Drive.

view of the above, there is no system of issuing or obtaining receipts for the goods bought or sold.

Q. 26 Every business transaction happens through Invoices and Receipts and due record for the same is maintained. How yours is an exception?

Ans. As explained above that in our trade practice, there is no system of issuing or obtaining receipts for the goods bought or sold. We note down details of every transaction on rough Notepad on daily basis and once the business is finished for the day, these details are destroyed after a day or two as they no longer serve any purpose for us. However, the transactions are recorded date-wise in a worksheet named “SKY” of the Excel Workbook named “SKY.xlsx” stored in the said Pen Drive which was seized and annexured as Annexure A1, during the course of Search & Seizure Action conducted at my residence, ND-8, Pitampura, Delhi – 34 on 28.12.2020. This worksheet named “SKY” serves as a cashbook for my business of Agricultural Commodities. The main purpose to maintain this record is to keep details of cash balance and not the detail sellers and buyers which is of no significance for me.

5.8 Since no evidence of any trading in agricultural commodities was found either during the course of the search action or on perusal of the seized record, he was asked to provide evidences such as receipt of buying and selling, in support of his claim that the transactions pertained to his business activity of trading in agricultural commodities. However, he could not provide a single piece of evidence to back his claim of business in agro commodities. Excerpt of his statement arc presented below:

Q. 24 Please provide the proof of carrying out the trade of Agricultural Commodities?

Ans. I usually trade in Agricultural Commodities outside the Agricultural Mandi which is mostly carried out in cash. As such, there is no record available regarding this trade of Agricultural Commodities.

Q. 25 Don't you provide receipts or ask for receipts, as the case may be, for all the buying and selling of Agricultural commodities that takes place as part of your trade?



Ans. As per our trade practice, we do not hold any stock. As per practice followed, whenever a person, who could either be a customer or an agent or middleman, approaches us for purchase of goods, we procure the goods, on the basis of such requirements, either from the farmer or from the open market or from broker/middleman and get the goods delivered directly from Seller's location to the buyers preferred location. Usually delivery takes place directly from Sellers location to the Buyer's location. We do not have any warehouse or godown. In view of the above, there is no system of issuing or obtaining receipts for the goods bought or sold.

Q. 26 Every business transaction happens through Invoices and Receipts and due record for the same is maintained. How yours is an exception?

Ans. As explained above that in our trade practice, there is no system of issuing or obtaining receipts for the goods bought or sold. We note down details of every transaction on rough Notepad on daily basis and once the business is finished for the day, these details are destroyed after a day or two as they no longer serve any purpose for us. However, the transactions are recorded date-wise in a worksheet named "SKY" of the Excel Workbook named "SKY.xlsx" stored in the said Pen Drive which was seized and annexured as Annexure A1, during the course of Search & Seizure Action conducted at my residence, ND-8, Pitampura, Delhi – 34 on 28.12.2020. This worksheet named "SKY" serves as a cashbook for my business of Agricultural Commodities. The main purpose to maintain this record is to keep details of cash balance and not the detail sellers and buyers which is of no significance for me.

Q. 29 Do you maintain any Books of Accounts pertaining to your business of Agricultural Commodities? If yes, please specify where are these Books of Accounts kept?

Ans. No Books of Accounts pertaining to my business of Agricultural Commodities are maintained by me.

Q. 30 Every business maintains proper Books of Accounts viz. Balance Sheet, Profit & Loss Account etc. Please state how your business is an exception to this?

Ans. In our business there is very low margin and hence, we do not have any formal system of maintaining any Balance Sheet, Profit & Loss Account etc. We only maintain details



of payments received and payments made in a Cashbook which is stored in a Pen Drive, as explained in Answer to Q. 26 of this statement.

Q. 31 During the course of Search & Seizure Action conducted at your premise, ND-8, Pitamputa, Delhi-34 on 28-12-2020, not a single piece of document was found pertaining to your said business of Agricultural Commodities. How can you claim that you have been carrying this trading of Agricultural Commodities from this premises?

Ans. As explained earlier that in our trade practice, we note down details of every transaction on rough Notepad on daily basis and once the business is finished for the day, these said details are destroyed after a day or two. Therefore, for this reason only, no document was found during the Search & Seizure action.

5.9 Shiv Prakash Bansal was made aware of the fact that total inflow and outflow of funds of his operation as per the records maintained in 'SKY' worksheet amounts to Rs. 265,19,72,535/- and Rs. 206,84,58,730/-. He was also confronted of the fact that how he did not know a single person's address despite having crores of transactions with them and their contacts having been stored in the mobile of his son Ankur Bansal. In his reply he stated that his modus of business does not require him to know about his clients. He further refused to agree with the figures of inflow and outflow as reflected in the excel sheet and as pointed to him while submitting his own version/ explanation as to how the same has to be understood. However, he expressed his inability to provide details of the people claiming that after the search action on him, they have discontinued their association with him. The excerpt of his statement is presented below:

Q. 57 I am now showing you Exhibit-D (41 Pages) which contains all the entries made in the Worksheet "SKY" of the Excel Workbook named "SKY.xlsx" from 01.07.2020 to 28.12.2020. Please acknowledge the total inflow of Rs. 265,19,72,535/- and total outflow of Rs. 206,84,58,730/-, done from 01.07.2020 to 28.12.2020 and also identify all of those people who you know from the "FROM/TO" column of the tables shown in Exhibit-D.

Ans. I acknowledge that I have seen Exhibit – D (41 pages) containing all the entries made in the Worksheet "SKY" of the Excel Workbook named "SKY.xlsx" from 01.07.2020 to 28.12.2020. However, the figures of total inflow and outflow



are incorrect. I am submitting the correct figures of total inflow & outflow alongwith the explanations about the entries and the entire Worksheet “SKY” as Annexure – 1 to this statement. I am unable to provide any details of about any of these people as mentioned in the “FROM/TO” column of the tables shown in Exhibit – D. After the search operations, all the persons have stopped doing business with me and that is why I discontinued the business and I am no longer in contact with any of these persons. However, I will try to reconnect with them and provide you the maximum possible details tomorrow.

5.10 Shiv Prakash Bansal was asked about correlation between the conversation about the transaction in Whatsapp group “Office” found from Amber Madan’s phone ‘Huawei Y7 Prime’ and the transactions recorded in Worksheet “SKY”. He was shown entry wise conversation in Whatsapp group “Office” and Worksheet “SKY”. In his reply he stated that day to day transactions have been discussed in the Whatsapp group and the same has been recorded in the worksheet “SKY”. Excerpts of his statement is presented below:

Q.64 I am now showing you a message sent by the user (919310213560@s.whatsapp.net Manoj Ji(admin)) in the Whatsapp group “Office”, referred to in the previous question, screenshot of which is given below. The message reads “5.325 rcvd from ankur Kapoor”. On referring to the entries made in the Worksheet “SKY” on 26.12.2020 “(table produced below), it is seen that the entry in the 10th row (highlighted) shows “Ankur Kapoor” in the FROM/TO column and 532500 in the RCVD column. Please explain the relation between this message in the whatsapp group “office” and the corresponding entry made in the worksheet ‘SKY’.



Ans. In my business of trading Agricultural Commodities, I often meet many people who are customers/suppliers/Brokers/Middleman etc. but I cannot remember each and every one of them. Therefore, I am unable to recall exactly about this customer Ankur Kapoor. Moreover, as per our trade practice, once the trading is finished for the day, the records of transactions including the customer details noted on a rough notepad are destroyed after a day or two as they no longer serve any purpose for us. Therefore, no record of customer details is retained. Due to the aforesaid reasons, I am unable to provide the above-mentioned details.

Q. 66 On perusal of the entries made in the worksheet “SKY” and the corresponding messages in the whatsapp group “Office”, it is evident that you are following a very organized system for recording every transaction happened with your clients. Then how is it possible that you are unable to provide details about your clients, who in this particular transaction is Ankur Kapoor?

Ans. As state earlier by me, since the records of business transactions including the inflow and outflow of cashflow is of prime importance to my business, these are maintained in a very organized way in the Worksheet “SKY” and the same are also discussed in the Whatsapp group “Office”. However, the details of our customers are not a significant aspect of our business operations and therefore, customer details are noted on a rough notepad, at the time of trade, are destroyed after a day or two as they no longer serve any purpose for us. For this very reason, customer details are neither recorded in the Worksheet “SKY” nor in the Whatsapp group “Office”.

5.12 The Assessee acknowledged of the fact that the total inflow and total outflow amount to Rs. 265,19,72,535/- and Rs. 206,84,58,730/- as per the transactions recorded in Worksheet “SKY” he challenged and submitted the following Profit & Loss Account along with the working:



Profit and Loss Account			
Particulars	DR	Particulars	CR
Purchase	1,81,22,41,320.00	Sales	1,81,62,28,085.00
Office Expenses	12,64,785.00		
Profit	27,21,980.00		
	1,81,62,28,085.00		1,81,62,28,085.00

5.13 Hence, as per his submission, the assessee Sh. Shiv Prakash Bansal has declared a profit of Rs.27,21,980/- out of his claimed business of Agro trading. The assessee has also declared that the percentage of profit earned by him on facilitating these transactions of sale and purchase is .25 to .30%. However, the claim of the assessee was not found tenable since, he has not been able to provide evidences in support of the same despite having been provided adequate opportunities. The only fact which is certain is that cash is received and paid as recorded in the excel sheet SKY.2

5.14 The Assessee has not been able to provide a single piece of document regarding his business in agro commodities, has not been able to identify the clients and besides also could not provide adequate explanation for the difference in the closing balance for a day and opening balance in the next day. Looking at these scenarios it appears that Assessee has presented a cooked-up story of agro trading to mislead the department. Therefore, it can be depicted that the assessee is engaged in the activity of movement of cash. The same is in line with the earlier information available with the Department based on which the search action was initiated on the assessee.

5.15 The Worksheet SKY has to be interpreted simply by assuming all the “RCVD” entries to be receipt and all the “PAID” entries to be payment. This is the only details that is



recorded in the relevant excel sheet while the rest of the details as claimed by the Assessee are not part of the same. So, the total receipt is Rs, 265,19,72,535/- and the total payment of Rs. 206,84,58,730/-. This implies that Rs. 2,06,84,58,730/- is the amount that has been received and given by the assessee as part of the cash mobilization. According to the market scenario, the commission in the activity of facilitation of market movement in cash can be as high as 1 percent of the cash moved. In the present case, the cash moved (Received and given) is Rs. 2,06,84,58,730/- as per the record contained in the sheet. The income generated on this amount @1% is Rs. 2,06,84,587/- which has not been recorded in any books of account. The difference between the receipt and the payment comes out to be Rs.58,35,13,805/- are unexplained advances with the assessee, Sh. Shiv Prakash Bansal.

5.16 On analyzing another Excel sheet named 'Bank' in the Workbook named 'SKY' which contains details of date wise fund inflow and outflow from different parties in two bank accounts namely Amit Industries and KG Cool Enterprises. The transactions maintained in Excel sheet named 'BANK' was matched with the transactions registered in bank account statements. The same is illustrated below for reference. Screenshots are presented below:



Row	Date	Amount	Name
470	14	250000	PRATEEK JAISWAL
471	15	400000	PRATEEK JAISWAL
472			6450000
473			6250000
474			
475			
476	11/57742.67	2	900000 WUNDERBAKED
477	413500	2	600000 WUNDERBAKED
478		3	900000 WUNDERBAKED
479	1571242.7	4	800000 WUNDERBAKED
480		5	900000 WUNDERBAKED
481		6	300000 WUNDERBAKED
482		7	800000 WUNDERBAKED
483		8	900000 WUNDERBAKED
484		9	800000 WUNDERBAKED
485		10	900000 WUNDERBAKED
486		11	6000
487		12	498000 PRATEEK JAISWAL
488		13	495000 PRATEEK JAISWAL
489			8300000
490			8186500

Date	Description	Amount	Label
08/12/2020	RTGS IN RTGS YESHR52020120876697315/WUNDERBAKED TECHNOLOGIES PVT LTD NOYESB0000001059461100000/NONE/ K G COOL ENTER	9,00,000.00	8,10,042.67
08/12/2020	RTGS IN RTGS YESHR52020120876697315/WUNDERBAKED TECHNOLOGIES PVT LTD NOYESB0000001059461100000/NONE/ K G COOL ENTER	8,00,000.00	17,10,042.67
08/12/2020	RTGS IN RTGS YESHR52020120876697315/WUNDERBAKED TECHNOLOGIES PVT LTD NOYESB0000001059461100000/NONE/ K G COOL ENTER	9,00,000.00	26,10,042.67
08/12/2020	RTGS OUT RTGS YESHR52020120800000185/GREEN APPLE LOGISTICS/00000005259971528845	7,16,700.00	18,93,642.67
08/12/2020	RTGS OUT RTGS YESHR52020120800000185/GREEN APPLE LOGISTICS/00000005259971528845	7,18,700.00	11,54,942.67
08/12/2020	RTGS OUT RTGS YESHR52020120800000191/GREEN APPLE LOGISTICS/00000005259971528845	5,83,700.00	5,71,242.67
08/12/2020	DEPOSIT BNP/PSA/6343148965501020900163961/ESM 1000117301431489015097002	6,000.00	5,77,242.67
08/12/2020	RTGS IN RTGS ACICR4202012080073422/PRATEEK JAISWAL/00000001042641035002210700/ENT7	9,99,000.00	10,76,242.67
08/12/2020	RTGS IN RTGS ACICR4202012080073422/PRATEEK JAISWAL/00000001042641035002210700/ENT7	4,95,000.00	15,71,242.67

5.17 As seen in the first screenshot, the Entry 1 & Entry 2, marked in the screenshot, denote the amount of money received by K G Cool on 08.12.2020 from Wunderbaked and similarly, Entry 3 & Entry 4, marked in the screenshot, denote the amount of money received by K G Cool on 08.12.2020 from Prateek Jaiswal. These entries in the first screenshot match with the transactions registered in the bank account of KG Cool on 08.12.2020, as can be seen in the second screenshot where the corresponding entries (Entry 1, Entry 2, Entry 3, Entry 4) have been marked. Similarly, it can be seen in the 'TO' Column that amount have been paid to Ratan Traders, Vintage forex, Liquid studios and Green Apple logistics. Same Transactions can be found in the screenshot of Bank Statement:



08/12/2020	08/12/2020	RTGS OUT,RTGS/ESMFR52020120800000171/LIQUID STUDIOS/YESB0000636/063661300002507	8,13,200.00
08/12/2020	08/12/2020	RTGS OUT,RTGS/ESMFR52020120800000172/LIQUID STUDIOS/YESB0000636/063661300002507	8,44,100.00
08/12/2020	08/12/2020	RTGS OUT,RTGS/ESMFR52020120800000174/GREEN APPLE LOG/INDB0000005/259971528845	4,61,200.00
08/12/2020	08/12/2020	RTGS IN,RTGS/YESBR52020120876697316/WUNDERBAKED TECHNOLOGIES PVT LTD NO/YESB0000001/059461100000/NONE/ //K G COOL ENTER	
08/12/2020	08/12/2020	RTGS IN,RTGS/YESBR52020120876697346/WUNDERBAKED TECHNOLOGIES PVT LTD NO/YESB0000001/059461100000/NONE/ //K G COOL ENTER	
08/12/2020	08/12/2020	RTGS IN,RTGS/YESBR52020120876697871/WUNDERBAKED TECHNOLOGIES PVT LTD NO/YESB0000001/059461100000/NONE/ //K G COOL ENTER	
08/12/2020	08/12/2020	RTGS OUT,RTGS/ESMFR52020120800000185/GREEN APPLE LOG/INDB0000005/259971528845	7,16,400.00
08/12/2020	08/12/2020	RTGS OUT,RTGS/ESMFR52020120800000188/GREEN APPLE LOG/INDB0000005/259971528845	7,38,700.00
08/12/2020	08/12/2020	RTGS OUT,RTGS/ESMFR52020120800000191/GREEN APPLE LOG/INDB0000005/259971528845	5,83,700.00

5.18 Transactions recorded in BANK excel sheet has also been found in Ambar Madan's Whatsapp conversation. Amber Madan is a trusted employee of Shiv Prakash Bansal who helps him in his operations. During the search operation, two phones were seized which belongs to Amber Madan. One of the phones was Huawei Y7 prime marked as Annexure A13. In that phone Amber Madan was a member of a Whatsapp group called 'office bank'. In this group members (Amber Madan, Ankur Bansal, Manoj, DG) have conversation regarding transactions done through Amit and KG Cool Enterprises bank accounts. Screenshots of Whatsapp conversation corroborating transactions done through bank and registered in BANK excel sheet are presented below:



5.19 Above are two messages posted by one Manoj ji in whatsapp group 'office bank'. The same transactions can be found in Bank excel sheet. Screenshot is presented below:

K G COOL - 26-12-2020						
S No	RCVD	FROM	RCVD	FROM	PAID	TO
1	1000000	WUNDERBAKED			17500	SUHAIL ASGHAR
2	1000000	WUNDERBAKED			85000	ROSHNI P PATEL
3	1000000	WUNDERBAKED			713600	KUNAL INFOTECH
4	1000000	WUNDERBAKED			696700	KUNAL INFOTECH
5	1000000	WUNDERBAKED			589700	KUNAL INFOTECH
6	1000000	WUNDERBAKED			807600	E COLLECT
7	1000000	WUNDERBAKED			803400	E COLLECT
8	1000000	WUNDERBAKED			792800	E COLLECT
9	1000000	WUNDERBAKED			796700	E COLLECT
10	1000000	WUNDERBAKED			799500	E COLLECT
11	400000	WUNDERBAKED			907500	DK ONLINE TRADE
12	1000000	WUNDERBAKED			998400	DK ONLINE TRADE
13	1000000	WUNDERBAKED			996200	DK ONLINE TRADE
14	1000000	WUNDERBAKED			992900	DK ONLINE TRADE
15	1000000	WUNDERBAKED				

5.20 Summons was sent to various parties (out of the parties identified) who have transacted significantly with the bank accounts Amit industries and KG Cool enterprises. However, most of the summons were unserved with the remark that the addresses did not exist. However, replies were received from Wunderbaked Technologies and Vetofiat Technologies pvt ltd. In their reply, they submitted that they work as payment aggregators and funds have been transferred through them to Amit Industries and KG Cool Enterprises. So the common pattern that emerged out of the enquires into the transactions happening through the two accounts namely Amit Industries and KG Cool Enterprises is that there has been transfer of funds through payment aggregators as well as



other entities.

5.21 Since, the transactions in these two bank accounts appeared suspect, and since the assessee had not provided any details regarding the same during the course of search action, the same was asked from the assessee as part of the post search proceedings. In his response, he stated that the transactions in the bank account relate to the trading in crypto currencies on behalf of his clients. On being asked about the modus of his trading as claimed by him, he stated that he gets the funds pooled from his customers who want to invest in crypto currencies. In the operation several wallets and bank accounts are involved which are managed by his employee Dinesh alias DG (who happens to be one of the members of the Whatsapp group “Office Bank” found in Amber Madan’s phone Huawei Y7 Prime where all the transactions found in excel sheet “Bank” has been discussed). After fund is pooled, Shiv Prakash Bansal directs 'DG' to buy crypto currencies and sell the crypto currency when the market is ripe. The proceeds of sale are channelized through Bank Accounts named Amit Industries and KG Cool Enterprises to respective clients. As per the statement of Shiv Prakash Bansal he did not know the technicalities of crypto trading. His job was limited to studying the crypto market whereas 'DG' manages all the wallets used for crypto trading and the bank accounts linked to that. As per Shiv Prakash Bansal 'DG' is also the person who manages the two accounts namely Amit Industries and KG Cool Enterprises. On further being asked about the details of DG Shiv Prakash stated that DG has fled the place after search action and Shiv Prakash has lost all the contacts with him. Shiv Prakash was exhibited content from worksheet 'Bank' to explain each entry appearing in the worksheet BANK for further clarity. Shiv Prakash Bansal was asked to provide the details of his clients on behalf of whom he has traded in crypto currency. However, he could not provide the details of a single customer/client since the details were maintained by his employee who was handling the wallets and the bank accounts for him, and who has fled the place. Excerpt of his statements are presented below:

Q.67 You are now being shown the clones data displaying entire worksheet named “BANK” of the Excel Workbook named “SKY.xlsx” stored in the Pen Drive mentioned in the Q. No. 17 of this statement. Please specify who has made these entries in the Worksheet “BANK” and what do all the entries made in different columns of the worksheet “BANK” denote alongwith its significance?



Ans. Yes, I acknowledge that I have gone through the entire worksheet “BANK” of the excel workbook named “SKY.xlsx”. Sometimes, I have made these entries and sometimes, these entries have been made by Amber Madan on my directions. These entries correspond to the transactions related to my business of Crypto Trading carried out on different dates on behalf of my clients. The entries in the RCVD column correspond to realization of funds from Crypto Trading and entries in the PAID column correspond to repayment of funds to clients which were invested in the Cryptocurrency.

Q. 68 Following are the 16 entries made for the date 15.09.2020 in the worksheet “BANK” of the Excel Workbook named “SKY.xlsx”, please explain what does each of these entries denote and what is its significance?

S. No.	RCVD	FROM	PAID	FROM / TO	PAID	FROM / TO
1	940000	WUNDERBAKED	181614	SACHIN KUMAR		
2	950000	WUNDERBAKED	8000	DINESH KUMAR		
3	930000	WUNDERBAKED	50000	AMIT AWASTHI		
4	920000	WUNDERBAKED	60000	AMIT AWASTHI		
5	910000	WUNDERBAKED	200000	VINOD SUDHA		
6	1000000	PROSPERITA	300000	SPAY TECHNOLOGY		
7	1000000	PROSPERITA	298800	R R JAIN		
8	1000000	WUNDERBAKED	3011700	R B JAIN		
9	1000000	PROSPERITA	200000	GLICKSON		
10	350000	R R AGARWAL	23000	VITANK KUMAR		
11	200000	AYUSHI	50000	AKASH BOHILA		
12	500000	AYUSHI	98000	NITIN SHARMA		
13	200000	AYUSHI	30000	MOHIT KUMAR		
14	200000	AYUSHI				
15	1500000	AYUSHI				
16	600000	AYUSHI				
TOTAL	12200000				7145614	

Ans. As stated earlier by me, these entries correspond to transactions related to my business of Crypto Trading, carried out on 15.09.2020 on behalf of my clients. The entries in the RCVD column correspond to the realization of funds from Crypto Trading and entries in the PAID column correspond to repayment of funds to clients which were invested in Cryptocurrency.

Q. 69 Please explain what does the columns FROM and FROM/TO signifies in the table shown to you as part of previous question?

Ans. The entries in the FROM column correspond to



persons/entities through which the realization of funds from Crypto Trading has been done. The entries in the FROM/TO column correspond to the clients/entities to whom repayment of funds invested in Cryptocurrency has been made.

Q. 70 Please explain in detail with narration, the entry made in the first row (S. No. 1) of the table with the header “AMIT 15.09.2020”, shown to you in the previous question, illustrating the meaning of each and every column of the table. Please also explain the details of the modus of your operation.

Ans. “AMIT” denotes the bank account in the name of Amit Industries through which on 15.09.2020 proceeds of trading in Crypto Currency has been received and payment has been made to the parties who had invested in Crypto Currency. As it can be seen at S. No. 1 of the table in the previous question, Rs. 9,40,000 has been received In the bank account of Amit Industries through the Payment facilitator WUNDERBAKED and repayment of Rs. 1,31,614 has been done to SACHIN KUMAR who had invested in Crypto Currency through me. IT may be noted here that the payment received and the repayment done will not have one-to-one correspondence and the reason being, my clients ask me to invest in certain number or fraction of Cryptocurrencies and I invest in bulk. At the time of realization that is when the proceeds of sale of Crypto Currencies is received in Bank account Amit, amount is transferred in different amounts to different clients as proportionate to their investment in Crypto Currency. The modus operandi of my business is as follows: I do crypto-trading on behalf of my clients. I do not own any Cryptocurrency pertaining to the transactions entered in worksheet named “BANK” of the Workbook named “SKY.xlsx”. I have earned only commission income during such Crypto transaction on behalf of my clients. I study crypto market regularly to know the appropriate time of buying & selling of Crypto Currency so that I can maximize the profits of my clients. However, the technicalities and intricacies of Crypto business is not known to me. In the part of technicality, I am assisted by my employees Dinesh alias DG and Manoj. DG and Manoj are the custodian of 2 bank accounts named Amit Industries and KG Cool Enterprises through which realization of proceeds from sale of Crypto Currencies are done. DG and Manoj manage all the Crypto wallets and the fund flow. In this entire business, my job is limited to enabling a pool of funds by aggregating money from investors/clients,



direct DG and Manoj to invest the funds in Cryptocurrencies at appropriate time and direct him to sell the Cryptocurrencies at appropriate time. After the sale of Cryptocurrencies, the realized amount is transferred to respective clients as proportional to their initial investment.

Q. 71 Following are the 13 entries made for the date 08.12.2020 in the worksheet “BANK” of the Excel Workbook named “SKY.xlsx”. Please explain what does each of these entries denote and what is its significance?

G COOL - 08-12-2020								
No	RCVD	FROM	RCVD	FROM	PAID	TO	PAID	TO
	900000	WUNDERBAKED			544600	RATAN TRADERS		
	600000	WUNDERBAKED			605400	RATAN TRADERS		
	900000	WUNDERBAKED			735600	VINTAGE FOREX		
	800000	WUNDERBAKED			739200	VINTAGE FOREX		
	900000	WUNDERBAKED			781700	VINTAGE FOREX		
	300000	WUNDERBAKED			842700	LIQUID STUDIOS		
	800000	WUNDERBAKED			833200	LIQUID STUDIOS		
	900000	WUNDERBAKED			844100	LIQUID STUDIOS		
	800000	WUNDERBAKED			461200	GREEN APPLE LOGISTICS		
3	900000	WUNDERBAKED			736400	GREEN APPLE LOGISTICS		
1	6000				738700	GREEN APPLE LOGISTICS		
1	499000	PRATEEK JAISWAL			583700	GREEN APPLE LOGISTICS		
1	495000	PRATEEK JAISWAL						
			8800000				8386500	

Ans. As stated earlier by me, these entries correspond to transactions related to my business of Crypto Trading, carried out on 08.12.2020 on behalf of my clients. The entries in the RCVD column correspond to the realization of funds from Crypto Trading and entries in the PAID column correspond to repayment of funds to clients which were invested in Cryptocurrency.

Q. 75 If at all, the entire narrative w.r.t. the worksheet “SKY”, as stated by you in the earlier answers of this statement is to be believed, it is clearly evident that you are kingpin of this entire operation of Crypto Trading. Therefore, it is logically presumed that you must have knowledge about all the Crypto Wallets being used for investment and redemption of Crypto Currency on behalf of your clients. So please provide the details of all the crypto wallets being used by you or your team for trading of Crypto Currencies including Wallet ID, Name & Address of Wallet Holder, Name of the Exchange in which



Wallet is registered etc.

Ans. As stated earlier by me, in this entire operation of Crypto trading I am assisted by persons named Dinesh alias DG and Manoj. DG and Manoj are the person who mainly manage or handle the whole network and setup that is required for Cryptocurrency trading. They also manage and handle the different bank accounts which are used for trading in Cryptocurrency. In the entire operation, my job was limited to bringing in potential investors, studying the crypto market, directing DG or Manoj to buy and sell crypto currency according to the market sentiment. I don't have any information regarding the wallets. The transaction in wallets is looked after by DG and Manoj and the information about the Wallet details, they only know. However, it may be stated here that I am spearheading the operation. I charge the commission of Rs. 500- 1000 for each bitcoin traded by me.

Q. 76 I am reminding you that your statement is being recorded under oath, and any false information provided by you or concealment of information by you, will attract penal provisions as per the Section 181 of the Indian Penal Code and Section 277 of the Income Tax Act, 1961. Do you wish to stand by your answer to the previous question that you don't have any information about the Crypto Wallets being used by you and your team for trading in Crypto Currencies?

Ans. Yes, I understand and I stand by my previous answer that I don't have any information about the Crypto Wallets being used for trading in Crypto Currencies on behalf of my clients.

Q. 77 Please provide the details of all the persons/entities mentioned in the column "FROM" of the table shown to you as part of Q. No. 42, including their full name, Address, Name of their business concern, Contact No. etc.?

Ans. As stated earlier, these are the persons/entities through which the realization of funds from Crypto Trading has been done. "WUNDERBAKE" and "PROSPERITA" are such payment facilitators through which funds invested in Cryptocurrencies are realized. The regd.

Q. 78 Please provide details of all the persons/entities mentioned in the column "FROM/TO" of the table shown to you as part of Q. No. 42, including their full name,



Address, Name of their business concern, Contact No. etc.?

Ans. As stated earlier, these are the persons/entities to whom repayment of funds invested in Cryptocurrency has been made, upon realization. Here, the term “FROM/TO” signifies that previously the funds were received “FROM” these clients and then, upon realization of funds after the sale of cryptocurrencies, funds have been paid “TO” them.

5.22 When the assessee was asked to explain as to how was his income in these transactions determined, he claimed that he gets Rs.500/- to Rs.1000/- per bitcoin as commission. However, when he was asked as to how many transactions of bitcoins have been undertaken, he could not provide the details of the same. It may be mentioned that no books of accounts of any kind were recovered from the premises of the assessee at the time of the search and also there was no mention of the same during the course of his statement recorded at that time. Moreover, no evidence of clients contacting Shiv Prakash Bansal for crypto trading has been found.

5.23 It is thus clear from the material available on record that transfer of funds through these bank accounts is not supported by any evidences and is merely the claim of the assessee, Sh. Shiv Prakash Bansal. However, the entities like Wunderbaked and Pay Pal are established payment aggregators. It is therefore apparent that the funds debited and credited through the bank accounts Amit Industries and KG Cool Enterprises are the fund of the third parties. The assessee has earned commission income by routing of funds through accounts controlled by him. Since the assessee could not provide any evidence to support of his claim of crypto trading, and since it can be seen that he is facilitating transactions for other parties, in light of the same, the closing balance of the Worksheet 'Bank' Rs.16,00,000/- is the surplus in the hands of the assessee after facilitating the transfers and is to be treated as the income of the Assessee. The taxability in this regard will be examined as per the provisions of the law.

5.24 Another **Excel sheet named 'DJ'** was also found in the same workbook. In the excel sheet 'DJ' record of different amounts having been received from a person named "DJ". One Screenshot of the entire Excel Sheet 'DJ' is presented below for illustration:



S.No.	DATE	DJ	
		RCVD	BY
1	08-01-2020	2000000	
2	22-05-2020	1200000	
3	25-05-2020	850000	
4	29-05-2020	800000	
5	30-05-2020	667455	
6	04-06-2020	500000	
8	04-06-2020	183500	
9			
TOTAL		6200955	



5.25 Since no details were provided by the assessee during the course of the search, and even during the Post-Search enquires, assessee could not provide any evidence to prove otherwise, in light of the same, the closing balance of the Worksheet 'DJ' Rs. 62,00,955/- is the surplus in the hands of the assessee and is to be treated as the income of the Assessee, Sh. Shiv Prakash Bansal. The taxability in this regard will be examined as per the provisions of the law.

5.26 Another **Excel sheet named 'AB'** was also found in the same workbook. In the excel sheet 'AB' record of different amounts having been received from Entities/ persons such as 'PRASHANT', 'DJ' etc. and record of different amounts having been paid to entities/ persons such as 'SUSHIL JAIN', 'ANKUR JI', etc. has been maintained. One Screenshot of the entire Excel Sheet 'AB' is presented below for illustration:



05-06-2020			
S.No.	RCVD	PAID	FROM / TO
1	3475500		PRASHANT
2	683500		DJ
3	3000000		COMPANY
4		1253900	SUSHIL JAIN
5		50000	ANKUR JI
TOTAL	7159000	1303900	
BALANCE			5855100
06-06-2020			
S.No.	RCVD	PAID	FROM / TO
1	5855100		ANKUR JI
2		1000000	COMPANY
3		158200	JATIN
4	175000		DIVYANSHU JI/NISHANT JI
TOTAL	6030100	1158200	
BALANCE			4871900
26-09-2020			
S.No.	RCVD	PAID	FROM / TO
1	3500000		ANKUR JI
2		483300	MANISH CMT
3		300000	SHEEBU/RAVI
4	18760		ANKUR JI
TOTAL	3518760	783300	
BALANCE			2735460

5.27 Since no details were provided by the assessee during the course of the search, and even during the Post-Search enquiries assessee could not provide any evidence to prove otherwise, this worksheet has to be interpreted simply by assuming all the 'RCVD' entries to be receipt and all the 'PAID' entries to be payment. This is the only detail that is recorded in the relevant excel sheet. So, the total receipt is Rs.1,67,07,860/- and the total payment is Rs. 32,45,400/-. The difference between the receipt and the payment comes out to be Rs. 1,34,62,460/- are unexplained advances with the assessee, Sh. Shiv Prakash Bansal. The taxability in this regard will be examined as per the provisions of the law.

5.28 Another Excel sheet named 'NIKHIL J.P' was also found in the same workbook. In the excel sheet 'NIKHIL J.P' record of different amounts having been received & paid from/ to a person named Nikhil J.P has been maintained. One Screenshot of the entire excel sheet "NIKHIL J.P" is presented below for illustration:



(HARISH KUMAR TANWAR)
Deputy Commissioner of Income Tax
Central Circle – 14, New Delhi”

7. As is manifest from a reading of that Satisfaction Note, the material unearthed in the course of the search of the Pitampura premises is stated to have resulted in the unearthing of evidence pertaining to huge cash transactions as well as an organized system for handling of unaccounted cash. The respondents in the course of the search of those premises are also stated to have seized jewellery as well as electronic devices from which data is stated to have been extracted. They are also stated to have accessed the WhatsApp conversations between Mr. Shiv Prakash Bansal and the searched persons. On the basis of the above, the AO came to the conclusion that the digital evidence obtained in the course of that search pertained or related to Mr. Shiv Prakash Bansal and thus the same likely to have a bearing on the determination of income of that individual. Accordingly, the AO proceeded to draw proceedings referable to Section 153C for AY 2015-16 to AY 2021-22. Similar satisfaction notes were drawn up in respect of the other writ petitioners before us.

8. The petitioners, as noted above, had assailed the commencement of action under Section 153C solely on the ground that since the seized material was not shown to have any connect with the searched persons, it would not be liable to be viewed as incriminating and thus the initiation of action under Section 153C being rendered illegal and unsustainable. It is this submission which was reiterated by Mr. Sinha, learned counsel who represented the writ



petitioners. According to Mr. Sinha, action under Section 153C would have to necessarily be founded upon material gathered in the course of a search, though belonging to the other person, being relevant and pertinent to the individuals who had been subjected to the search itself and against whom action under Section 153A may have been commenced.

9. According to Mr. Sinha, unless the material gathered could be said to have a correlation with the determination of income of the searched persons, the commencement of action under Section 153C would not sustain. Mr. Sinha also sought to draw sustenance for that contention from the following observations which appear in the judgment of the Court rendered in **S.R. Batliboi & Co. v. Department of Income Tax (Investigation)** ⁴. Our attention was specifically drawn to Paragraphs 11 and 16 of that judgement and which are extracted hereunder: -

“11. In *Manish Maheshwari -vs- Assistant CIT*, (2007) 3 SCC 794 one of the provisions which was at the fulcrum of discussion was Section 158-BD of the Act in the context of the legitimacy of ordering a Block-Assessment. This provision has also been relied upon before us in order to vindicate the stance of the Revenue that information that can be gleaned from the seized computers belonging or relating to other clients of the Petitioner, even those who have had no dealings whatsoever with the assesses against whom the search and seizure operations are directed, can legitimately be demanded and acted upon. The argument is that the Act contemplates that all such information should be forwarded by the Authority carrying out the search and seizure to the Assessing Officer of those third parties. We are unable to accept such an

⁴ 2009 SCC OnLine Del 1628



extreme stand. The words "other person" employed in the Section must only be construed as referring to the „other person“ having dealings or transactions with the party who is being searched or whose material is being seized. Otherwise, the provisions may well be seen as violative of the fundamental rights enshrined in Articles 14 and 19.

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16. Mr. Vikas Singh, learned Senior Counsel for the Revenue has also referred to Section 153C of the Act, which essentially prescribes the period within which the action envisaged in that Act is to be completed, and the method by which it is to be computed. Section 153 prescribes the period within which assessments or reassessments must be completed, viz. in the normal course within two years from the end of the Assessment Year in which the income was assessable. If income appears to have escaped taxation and Sections 147 to 149 are pressed into service, Section 153(2) mandates broadly that the assessment must be completed within one year. Sections 153A, 153B and 153C were introduced by the Finance Act, 2003 with effect from 1.6.2003. In essence, Section 153A has in focus the „case of a person where a Search is initiated or any assets are requisitioned“ and envisages the furnishing of a Return of income for six years. The succeeding Section 153B sets a limit of two years for the making of an order of assessment or reassessment of such a person, that is, one in respect of whom a search or requisition has been initiated. Section 153C, on the other hand, brings within its sweep "a person other than the person referred to in Section 153A" to whom the money, bullion, jewellery or other valuable article belongs or books of account or document seized or requisitioned belong and directs that they shall be forwarded to the Assessing Officer of that person. The Assessing Officer will then proceed in the manner prescribed by Section 153A, which principally extends the period within which the assessment has to be completed. The vires of these sections were challenged in Soraya Industries Ltd. -vs- UOI, [2008] 306 ITR 189, but the argument that distinguishable persons have been impermissibly placed in the same mould did not find favour with



the Division Bench. Our esteemed Brothers opined that "the seizure or requisition must be of such a character as to persuade the Assessing Officer to even reopen closed assessments". So far as the case in hand is concerned we have again to interpret the words "a person" employed in the Section. The consideration would be whether these words would include a person totally unconnected with the party in respect of whom the seizure or seizure maneuver is directed, who by a quirk of fate chances to be in the wrong place at the wrong time. Conceive of a coincidence where the raided party has its offices on the 2nd Floor of an office complex in which the other person unconnected altogether with the former works out of the 3rd Floor, and a courier with a parcel of document walks into the 2nd Floor at that awkward or inopportune time. It appears to be absurd that that parcel could be confiscated by the raiding revenue regiment for being forwarded to the Assessing Officer of the 3rd Floor person. However, as already observed above this provision does not of itself shed any light on the question whether even a person unconnected with the assessee who is the subject of the raid, having no dealings with it, is envisaged in any manner with the consequences of that operation."

10. It becomes pertinent to note that *S.R. Batliboi* was a judgment which was concerned with the invocation of block assessment contemplated under the erstwhile Section 158BD and which owed its genesis to the seizure of two laptops belonging to the employees of the petitioner before the Court. Mr. Sinha would contend that *S.R. Batliboi* is an authority for the proposition that the phrase 'other person' wherever occurring, must be construed as referring to a person who had dealings or transactions with the party who had been subjected to search. It is in the aforesaid context that Mr. Sinha sought to rely upon the observations of the Court appearing in the passages extracted above.

11. We, however, find ourselves unable to countenance that



submission bearing in mind the indisputable position which would emerge upon a conjoint reading of Section 153A along with Section 153C. Those provisions as they existed at the relevant time are reproduced hereinbelow: -

“153A- Assessment in case of search or requisition: [(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 [*but on or before the 31st day of March, 2021*], 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 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]:

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 :

[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]

[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.

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.

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.]

[(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 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:

Provided that such revival shall cease to have effect, if such order of annulment is set aside.]



Explanation.—For the removal of doubts, it is hereby declared that,—

- (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;
- (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.

XXXX

XXXX

XXXX

153C- Assessment of income of any other person: [(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]

[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 [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 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.]

[(3) Nothing contained in this section shall apply in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of April, 2021.]”

12. Section 153A deals with the procedure for assessment which may be set in motion in respect of the searched entity and where a search may have been initiated in terms contemplated by Section 132 of the Act. Upon such a search being conducted, the AO of the



searched person is statutorily enabled to issue notice to the searched entity requiring him to furnish a return of income for the six AYs immediately preceding the AY relevant to the previous year in which such search was conducted as well as for the relevant assessment years as defined.

13. By virtue of the Fourth Proviso appended to Section 153A, no notice for assessment or commencement of action can be validly issued unless the AO of the searched entity be satisfied that the books of account or other documents gathered in the course of the search reveals that income represented in the form of an asset had escaped assessment and which income amounts to or is likely to amount to INR 50 Lakhs or more. The second aspect on which satisfaction must be recorded is with respect to such income having escaped assessment for either the six years block period or the relevant assessment years as defined.

14. Section 153C, on the other hand, caters to a contingency where the search may lead to the unearthing of money, bullion, jewellery or other valuable article or thing or for that matter, books of account or documents which belong or pertain to a person other than the one referred to in Section 153A. The Section 153C action is thus aimed at a reopening of an assessment made in respect of a person other than the one referred to in Section 153A and such person being the non-searched entity. All assessments pending on the date of commencement of action under that provision stand abated and the AO thus becomes empowered to commence assessment afresh.



15. The trigger for Section 153C is thus the discovery of documents or articles in the course of a search which pertain or belong to a third party, and which may have a bearing on the determination of the total income of such other person for the six AY period or the relevant assessment years.

16. It becomes pertinent to note that the search in the present case was undertaken between 28 December 2020 and 31 December 2020. The search would thus, undoubtedly, be governed by Section 153C as it stood post the amendments introduced in that provision by virtue of Finance Act, 2015 and which added the expression “*pertains, or pertain to*”, in addition to the phrase “*belongs to*” which always existed. However, nothing material would turn upon that amendment and which has been explained by the Supreme Court in **Income Tax Officer v. Vikram Sujitkumar Bhatia**⁵ as being clarificatory and thus being applicable to searches which may have been undertaken prior to the promulgation of Finance Act, 2015.

17. However, and as we read Section 153C, it becomes apparent that the provision clearly neither envisages nor mandates the existence of a connection between persons and individuals who may fall within the ambit of Section 153A and those against whom action under Section 153C may be initiated. The latter provision is solely concerned with the discovery of documents and articles belonging or pertaining to a person other than the one subjected to search and which are likely to have an impact on the total income of such other

⁵ (2024) 7 SCC 741



person as assessed. Section 153C is thus premised on material or information alone as opposed to the discovery of a connection or link between the searched person and the non-searched entity.

18. In terms of the procedure as prescribed under Section 153C, the AO of the searched entity, on being satisfied that the books or articles discovered in the course of the search belong or pertain to a person other than one referred to in Section 153A, would transmit the same to the jurisdictional AO of the non-searched entity. That jurisdictional AO is thereafter obliged to form an opinion whether the books of account, documents or assets seized are likely to have a bearing on the determination of the total income of such other person.

19. Thus, the AO of the searched person has to merely examine the documents or articles unearthed from the point of view of examining whether they pertain to the searched entity or are concerning someone who may not have been named in the search warrant. Once the said AO comes to the conclusion that the document or asset belong or pertain to a non-searched entity, it has to merely transmit the same to the concerned AO and who may then examine whether further action in terms of Section 153C is warranted.

20. Thus, the entire edifice of Section 153C is built on incriminating material that may be gathered in the course of a search. The submission that action under Section 153C must be premised upon some connection between the searched and the non-searched entity or for that matter on the material gathered having some link with the searched person is clearly misconceived. If the material that



had been gathered were to have a link or connect to the searched persons, it would clearly not fall within the scope of Section 153C at all. This, since the commencement of action under that provision is itself predicated upon the material gathered in the course of the search belonging or pertaining to an unrelated party and one who may not have been covered under the search authorization.

21. We are therefore of the firm opinion that the statutory scheme does not mandate or envisage the discovery of a connect or interrelationship between the searched and the non-searched entity.

22. The reliance placed by Mr. Sinha on the judgment of the Bombay High Court in - **Commissioner of Income Tax v. Arpit Land Pvt. Ltd** ⁶ is also clearly misplaced. In *Arpit Land*, the Bombay High Court had observed as follows:-

“6. We note that in terms of Section 153C of the Act at the relevant time i.e. prior to 1st June, 2015 the proceedings under Section 153C of the Act could only be initiated/proceeded against a party - assessee if the document seized during the search and seizure proceedings of another person belonged to the party - assessee concerned. The impugned order records a finding of fact that the seized documents which formed the basis of initiation of proceedings against the respondent assessee do not belong to it. This finding of fact has not been shown to us to be incorrect. Further, the impugned order placed reliance upon a decision of Gujarat High Court in **Vijaybhai Chandrani v. Asst. CIT (2011) 333 ITR Page 436** which records that the condition precedent for issuing notice under Section 153C of the Act is that the document found during search proceedings should belong to assessee to whom notice is issued under Section 153C of the Act. It was fairly

⁶ 2017 SCC OnLine Bom 5640



pointed out to us by Mr. Mistry, the learned Senior Counsel for the respondent - assessee that the above decision was reversed by the Supreme Court in **CIT v. Vijaybhai N. Chandrani (2013) 357 ITR 713**. However, we find that the Apex Court reversed the view of Gujarat High Court on the ground that efficacious alternative remedy was available to the petitioner to raise its objections before the authorities under the Act. Therefore, the Gujarat High Court should not have exercised its extra ordinary writ jurisdiction to entertain the petition. However, the Apex Court also clarified that it was not expressing any opinion of the correctness or otherwise of construction placed by the High Court on Section 153C of the Act. The Revenue has not pointed out any reason why the construction put on Section 153C of the Act by Gujarat High Court is not correct/appropriate. We find that in any case our Court has also taken a similar view in **CIT v. Sinhgad Technical Education Society (2015) 378 ITR 84** and refused to entertain Revenue's appeal.

7. The grievance of the Revenue as submitted by Mr. Kotangale is a submission made on the basis of suspicion and not on the basis of any evidence on record which would indicate that the respondent - assessee and persons searched were all part of the same group. Be that as it may, the requirement of Section 153C of the Act cannot be ignored at the alter of suspicion. The Revenue has to strictly comply with Section 153C of the Act. We are of the view that non satisfaction of the condition precedent viz. the seized document must belong to the respondent - assessee is a jurisdictional issue and non satisfaction thereof would make the entire proceedings taken thereunder null and void. The issue of Section 69C of the Act can only arise for consideration if the proceedings under Section 153C of the Act are upheld. Therefore, in the present facts, the issue of Section 69C of the Act is academic.”

23. We firstly, find ourselves unable to appreciate how the aforementioned observations could be of any assistance to the cause as espoused by the writ petitioners. The Bombay High Court took the



view that Section 153C cannot be commenced merely on the basis of suspicion and that the *sine qua non* for the initiation of proceedings is of the seized documents belonging to the non-searched entity.

24. While, we are in the present case not really concerned with the distinction which various judgments recognized between the expressions “belong to” and “pertain to”, suffice it to note that the 2015 amendments were clearly found by the Supreme Court itself as being clarificatory in character and thus being applicable to even those searches which may have been undertaken prior to the promulgation of Finance Act, 2015. This position stands duly elucidated in the judgment of the Supreme Court in *Vikram Sujitkumar Bhatia*.

25. We are thus of the firm opinion that an action under Section 153C is premised solely on the discovery of incriminating material and which is likely to have an impact or bearing on the assessed income of a non-searched entity. The statute neither requires nor obliges the AO of the other person to find or uncover a relationship or an association between the searched and the non-searched person. The provision is merely concerned with the evaluation of the material unearthed in the course of a search and an assessment of whether it is likely to have a bearing on the income of a non-searched entity. If the submission of Mr. Sinha were to be accepted, we would be compelled to read Section 153C as being liable to be invoked only if there be some relationship between persons who were subjected to the actual search and those to whom the material may relate. Interpreting Section 153C as suggested would lead one to a situation where even though



the material unearthed may be incriminating, absent a relationship between persons, the AO would be left powerless to even consider the likely impact of that material. That clearly does not appear to be the object or the purpose of that provision. We are thus of the considered opinion that the challenge is clearly misconceived.

26. The writ petitions consequently fail and shall stand dismissed.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

FEBRUARY 18, 2025/DR