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

% **Judgment reserved on: 18 September 2024**
Judgment pronounced on: 26 September 2024

\+ W.P.(C) 1892/2024 & CM APPL. 7921/2024 (Stay)
ARN INFRASTRUCTURES INDIA LIMITED .....Petitioner
Through: Mr. Ruchesh Sinha, Ms. Shilpa Choudhary & Mr. Pankaj Aggarwal, Advs.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CENTAL CIRCLE-28 DELHI & ORS. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 1893/2024 & CM APPL. 7924/2024 (Stay)
ARN INFRASTRUCTURES INDIA LIMITED .....Petitioner
Through: Mr. Ruchesh Sinha, Ms. Shilpa Choudhary & Mr. Pankaj Aggarwal, Advs.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CENTAL CIRCLE-28 & ORS. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 2479/2024 & CM APPL. 10151/2024 (Stay)
ARN INFRASTRUCTURES INDIA LIMITED .....Petitioner
Through: Mr. Ruchesh Sinha, Ms. Shilpa Choudhary & Mr. Pankaj Aggarwal, Advs.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CENTAL CIRCLE-28 DELHI & ORS. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit

Pareek, JSCs.

\+ W.P.(C) 2480/2024 & CM APPL. 10153/2024 (Stay)
ARN INFRASTRUCTURES INDIA LIMITED .....Petitioner
Through: Mr. Ruchesh Sinha, Ms. Shilpa Choudhary & Mr. Pankaj Aggarwal, Advs.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CENTAL CIRCLE-28 DELHI & ORS. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 2481/2024 & CM APPL. 10155/2024 (Stay)
ARN INFRASTRUCTURES INDIA LIMITED .....Petitioner
Through: Mr. Ruchesh Sinha, Ms. Shilpa Choudhary & Mr. Pankaj Aggarwal, Advs.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CENTAL CIRCLE-28 DELHI & ORS. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 5568/2024 & CM APPL. 23003/2024 (Stay)
ANKUSH SALUJA .....Petitioner
Through: Mr. Bhupinder Jit Kumar & Mr. Nikhil Sharma, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CRICLE-5, DELHI & ANR. .....Respondents
Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, JSCs.

\+ W.P.(C) 5583/2024 & CM APPL. 23043/2024 (Stay)

BHADANI FINANCERS PVT. LTD. .....Petitioner

Through: Mr. Gautam Jain, Mr. Shaantanu Jain & Mr. Manish Yadav, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE-8, NEW DELHI .....Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 5719/2024 & CM APPL. 23582/2024 (Stay), 52556/2024 (23 Days Delay in Rej.)

DHARAMPAL SATYAPAL LTD (SUCCESSOR OF ABHISAR BUILDWELL PVT LTD) .....Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Rohit Jain, Mr. Aniket D. Agrawal, Mr. Deepesh Jain & Mr. Samarth Chaudhari, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 5721/2024 & CM APPL. 23586/2024 (Stay), 52554/2024 (23 Days Delay in Rej.)

DHARAMPAL SATYAPAL LTD (SUCCESSOR OF ABHISAR BUILDWELL PVT LTD) .....Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Rohit Jain, Mr. Aniket D. Agrawal, Mr. Deepesh Jain & Mr. Samarth Chaudhari, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Gaurav Gupta, SSC with Mr.

Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 5732/2024 & CM APPL. 23609/2024 (Stay), 52575/2024 (23 Days Delay in Rej.)
DHARAMPAL SATYAPAL LTD (SUCCESSOR OF ABHISAR BUILDWELL PVT LTD) .....Petitioner
Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Rohit Jain, Mr. Aniket D. Agrawal, Mr. Deepesh Jain & Mr. Samarth Chaudhari, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 5787/2024 & CM APPL. 23954/2024 (Direction)
M/S TIRUPATI BUILDINGS AND OFFICES PVT LTD .....Petitioner
Through: Mr. Sumit K. Batra, Mr. Manish Khurana, Ms. Priyanka Jindal & Mr. Siddhanth Sarwal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. .....Respondents
Through: Mr. Sunil Kumar Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya, JSCs & Mr. Utkarsh Tiwari, Adv.

\+ W.P.(C) 3329/2024 & CM APPL. 13739/2024 (Stay)
PARAM DAIRY LTD .....Petitioner
Through: Mr. Rohit Jain, Mr. Deepesh Jain & Mr. Samarth Chaudhari, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, JSCs.

\+ W.P.(C) 6177/2024 & CM APPL. 25690/2024 (Stay)

GOOD EARTH PLOTTED DEVELOPMENT PRIVATE LIMITED .....Petitioner

Through: Mr. Gaurav Jain & Mr. Shubham Gupta, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRA CIRCLE-2, NEW DELHI .....Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

\+ W.P.(C) 12832/2024 & CM APPL. 53526/2024 (Interim Relief)

SATYA REALTORS PRIVATE LIMITED THROUGH DIRECTOR SANJAY GUPTA .....Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

INCOME TAX OFFICER WARD 22(3) DELHI & ORS. .....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, JSCs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

YASHWANT VARMA, J.

1. This batch of writ petitions impugns the proceedings for reassessment initiated after the decision of the Supreme Court in **Principal Commissioner of Income Tax, Central- 3 v. Abhisar**

Buildwell Private Limited[1].

2. The writ petitioners assail the validity of the reassessment action principally on the ground of being barred by time. It is their case that the reassessment action which had come to be initiated after the promulgation of Finance Act, 2021 would not qualify the pre-conditions which are introduced by virtue of the First Proviso to Section 149(1) of the **Income Tax Act, 1961**[2]. According to the writ petitioners, the initiation of action under Section 148 of the Act, when tested on the anvil of the First Proviso to Section 149(1), would lead one to the inevitable conclusion of the reassessment action being barred on the ground of limitation.

3. For sake of convenience, the writ petitioners had placed before us a tabular statement setting out the relevant details pertaining to each of the writ petitions forming part of this batch. The said table is extracted hereinbelow:

WP (C) No.	Assessment Year	Limitation date to issue notice [S.149(1) & First Proviso]	Date of Impugned S.148 Notice
1892/2024	2008-09	31.03.2015	30.11.2023
1893/2024	2007-08	31.03.2014	30.11.2023
2479/2024	2011-12	31.03.2018	30.11.2023
2480/2024	2012-13	31.03.2019	30.11.2023
2481/2024	2010-11	31.03.2017	30.11.2023
5568/2024	2007-08	31.03.2014	30.11.2023
5583/2024	2009-10	31.03.2016	30.11.2023
5719/2024	2009-10	31.03.2016	30.03.2024
5721/2024	2007-08	31.03.2014	30.03.2024
5732/2024	2008-09	31.03.2015	30.03.2024
5787/2024	2008-09	31.03.2015	15.04.2024
3329/2024	2012-13	31.03.2019	30.11.2023

[1] (2024) 2 SCC 433
[2] Act

6177/2024	2008-09	31.03.2015	23.03.2024
12832/2024	2010-11	31.03.2017	29.04.2024

4. For the sake of completeness, we deem it appropriate to take note of the salient facts which underlie the lead writ petitions, being WP(C) 5721/2024 and WP(C) 1892/2024.

5. **Dharampal Satyapal Ltd.**[3], the writ petitioner, is the successor entity of **Abhisar Buildwell Private Limited**[4], a company incorporated under the Companies Act, 1956 and which had come into existence as a result of a demerger of the Rubber Thread Unit of the writ petitioner pursuant to a Scheme of Demerger approved by the concerned High Court on 11 September 2007. ABPL is stated to have filed a revised Return of Income for **Assessment Year**[5] 2007-08 on 29 September 2008. It appears that on 21 January 2011 a search and seizure operation was carried out in respect of the Dharampal Satyapal Group and which included ABPL. Consequently, ABPL came to be served a notice under Section 153A on 09 January 2012. The aforesaid proceedings ultimately culminated in an order of assessment being framed and which saw the **Assessing Officer**[6] ordering a disallowance of INR 10,64,45,327/- in respect of depreciation which had been claimed by ABPL.

6. The order of assessment dated 18 March 2013 was subjected to challenge by way of an appeal before the **Commissioner of Income Tax (Appeals)**[7]. That appeal came to be allowed on 25 April 2014 with the CIT(A) holding that the assessment would not sustain in the

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[3] DSL
[4] ABPL
[5] AY
[6] AO
[7] CIT(A)

absence of any incriminating material having been unearthed in the course of the search. This since the disallowances were principally based on a special audit report and thus unconnected with the material gathered in the course of the search.

7. The aforesaid order of the CIT(A) was assailed by the Revenue before the **Income Tax Appellate Tribunal**[8]. That appeal came to be dismissed on 04 July 2017 with the Tribunal taking note of the seminal decision rendered by this Court in **Commissioner of Income-tax v. Kabul Chawla**[9] and which had underlined the import and significance of incriminating material constituting the foundational ground for a search assessment. The decision of the Tribunal was thereafter subjected to challenge before this Court by way of ITA No. 239/2018 which too came to be dismissed on 24 July 2019.

8. This led to the filing of a Special Leave Petition before the Supreme Court. That petition constituted the lead matter in *Abhisar Buildwell*. The Supreme Court, while ruling on the scope and ambit of a search assessment in *Abhisar Buildwell*, took note of the consistent view which had been taken by different High Courts and which had in unison held that no additions could be made in respect of completed or unabated assessments in absence of any incriminating material having been gathered in the course of a search. This becomes apparent from the following observations as appearing in paragraph 25 of the report:

> "**25.** At the outset, it is required to be noted that as such various High Courts, namely, Delhi High Court, Gujarat High Court, Bombay High Court, Karnataka High Court, Orissa High Court, Calcutta High Court, Rajasthan High Court and the Kerala High Court have taken the view that no addition can be made in respect of completed/unabated assessments in absence of any incriminating

[8] Tribunal

[9] 2015 SCC OnLine Del 11555

> material. The lead judgment is by the Delhi High Court in *Kabul Chawla*, which has been subsequently followed and approved by the other High Courts, referred to hereinabove. One another lead judgment on the issue is the decision of the Gujarat High Court in *Saumya Construction*, which has been followed by the Gujarat High Court in the subsequent decisions, referred to hereinabove. Only the Allahabad High Court in *CIT v. Mehndipur Balaji* has taken a contrary view."

9. The Supreme Court also took note of a decision handed down by the Gujarat High Court in **Principal Commissioner of Income-tax v. Saumya Construction P. Ltd.**[10] and which had resonated the view expressed by this Court in *Kabul Chawla*. This flows from a reading of paragraph 27 of the report which is extracted hereinbelow:

> "**27.** Thereafter in *Saumya Construction*, the Gujarat High Court, while referring the decision of the Delhi High Court in *Kabul Chawla* and after considering the entire scheme of block assessment under Section 153-A of the 1961 Act, had held that in case of completed assessment/unabated assessment, in absence of any incriminating material, no addition can be made by the AO and the AO has no jurisdiction to reopen the completed assessment. In paras 15 and 16, it is held as under: (*Saumya Construction case*, SCC OnLine Guj)
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> > "*15.* On a plain reading of Section 153-A of the Act, it is evident that the trigger point for exercise of powers thereunder is a search under Section 132 or a requisition under Section 132-A of the Act. Once a search or requisition is made, a mandate is cast upon the assessing officer to issue notice under Section 153-A of the Act to the person requiring him to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and assess or reassess the same. Since the assessment under Section 153-A of the Act is linked with search and requisition under Sections 132 and 132-A of the Act, it is evident that the object of the section is to bring to tax the undisclosed income which is found during the course of or pursuant to the search or requisition. However, instead of the earlier regime of block assessment whereby; it was only the undisclosed income of the block period that was assessed, Section 153-A of the Act seeks to assess the total

[10] 2016 SCC OnLine Guj 9976

income for the assessment year, which is clear from the first proviso thereto which provides that the assessing officer shall assess or reassess the total income in respect of each assessment year, falling within such six assessment years. The second proviso makes the intention of the legislature clear as the same provides that assessment or reassessment, if any, relating to the six assessment years referred to in the sub-section pending on the date of initiation of search under Section 132 or requisition under Section 132-A, as the case may be, shall abate. Subsection (2) of Section 153-A of the Act provides that if any proceeding or any order of assessment or reassessment made under sub-section (1) is annulled in appeal or any other legal provision, then the assessment or reassessment relating to any assessment year which had abated under the second proviso would stand revived. The proviso thereto says, that such revival shall cease to have effect if such order of annulment is set aside. Thus, any proceeding of assessment or reassessment falling within the, six assessment years prior to the search or requisition stands abated and the total income of the assessee is required to be determined under Section 153-A, of the Act. Similarly, sub-section (2) provides for revival of any assessment or reassessment which stood abated, if any proceeding or any order of assessment or reassessment made under Section 153-A of, the Act is annulled in appeal or any other proceeding.

16. Section 153-A bears the heading "Assessment in case of search or requisition". It is well settled as held by the Supreme Court in a catena of decisions that the heading of the, section can be regarded as a key to the interpretation, of the operative portion of, the section and if there is no ambiguity in the language or if it is plain and clear, then the heading used in the section strengthens that meaning. From the heading of Section 153, the intention of the legislature is clear viz. to provide for assessment in case of search and requisition. When, the very purpose of the provision is to make assessment in case of search or requisition, it goes without saying that the assessment has to have relation to the search or requisition. In other words, the assessment, should be connected with something found during the search or requisition viz. incriminating material which reveals undisclosed income. Thus, while in view of the mandate of sub-section (1) of Section 153-A of the Act, in every case where there is a search or requisition, the assessing officer is obliged to issue notice to such person to furnish returns of income for the six years preceding the assessment year relevant to the previous year in which the search is conducted or requisition is made, any addition or disallowance can be

made only on the basis of material collected during the search or requisition. In case no incriminating material is found, as held by the Rajasthan High Court in *Jai Steel (India) v. CIT*, the earlier assessment would have to be reiterated. In case where pending assessments have abated, the assessing officer can pass assessment orders for each of the six years determining the total income of the assessee which would include income declared in the returns, if any, furnished by the asses see as well as undisclosed income, if any, unearthed during the search or requisition. In case where a pending reassessment under Section 147 of the Act has abated, needless to state that the scope and ambit of the assessment would include any order which the assessing officer could have passed under Section 147 of the Act as well as under Section 153-A of the Act."

10. The view expressed in *Kabul Chawla* ultimately came to be affirmed by the Supreme Court as would be evident from paragraph 28 which is extracted hereunder:

> "**28.** For the reasons stated hereinbelow, we are in complete agreement with the view taken by the Delhi High Court in *Kabul Chawla* and the Gujarat High Court in *Saumya Construction (P)*, taking the view that no addition can be made in respect of completed assessment in absence of any incriminating material."

11. Proceeding then to expound upon the legal position, the Supreme Court rendered the following pertinent observations:

> "**33.** As per the provisions of Section 153-A, in case of a search under Section 132 or requisition under Section 132-A, the AO gets the jurisdiction to assess or reassess the "total income" in respect of each assessment year falling within six assessment years. However, it is required to be noted that as per the second proviso to Section 153-A, the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years pending on the date of initiation of the search under Section 132 or making of requisition under Section 132-A, as the case may be, shall abate. As per sub-section (2) of Section 153-A, if any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or Section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner. Therefore, the intention of the legislation seems to

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

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

sub-section (2) of Section 153-A would be redundant and/or re-writing the said provisions, which is not permissible under the law.

35. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in *Kabul Chawla* and the Gujarat High Court in *Saumya Construction* and the decisions of the other High Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material."

12. The batch ultimately came to be disposed of in the following terms:

> "**36.** In view of the above and for the reasons stated above, it is concluded as under:
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> **36.1.** That in case of search under Section 132 or requisition under Section 132-A, the AO assumes the jurisdiction for block assessment under Section 153-A;
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> **36.2.** All pending assessments/reassessments shall stand abated;
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> **36.3.** In case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the "total income" taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and
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> **36.4.** In case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132-A of the 1961 Act. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under Sections 147 /148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under Sections 147/148 of the Act and those powers are saved."

13. As is manifest from the above, the Supreme Court in unambiguous terms held that it would only be in cases where undisclosed income is found on the basis of incriminating material that the AO could be said to have validly assumed jurisdiction to assess income for the ten-year block assessment period constituting the subject matter of Section 153A. It thus held, while affirming the view taken by

the Delhi and the Gujarat High Courts, that no addition could be made in respect of completed assessments in the absence of any incriminating material.

14. It becomes relevant to note that the Supreme Court also pertinently observed that in case a search does not result in any incriminating material being found, the only remedy that would be available to the Revenue would be to resort to Sections 147/148 of the Act "*subject to fulfilment of the conditions mentioned*" in those provisions. This it held, since in its opinion, the Revenue could not have been left remediless. It thus observed that where a search does not result in any incriminating material being unearthed, the power of the Revenue to initiate reassessment action would stand preserved subject to the same being in conformity with the scheme of reassessment as embodied in Sections 147 and 148 of the Act.

15. The Supreme Court was again called upon to deal with the validity of a search assessment resting on no material gathered in the course thereof in **Dy. Commissioner of Income Tax Central Circle 20 vs U.K. Paints (Overseas) Ltd**[11]. The aforesaid appeal came to be dismissed on 25 April 2023 with the Supreme Court observing as under:

> "**1.** In this batch of appeals, the assessments in case of each Assessee were under Section 153-C of the Income Tax Act, 1961 (for short, 'the Act'). As found by the High Court in none of the cases any incriminating material was found during the search either from the Assessee or from third party. In that view of the matter, as such, the assessments under Section 153-C of the Act are rightly set aside by the High Court. However, Shri N Venkataraman, learned ASG appearing on behalf of the Revenue, taking the clue from some of the observations made by this Court in the recent decision in the case of Principal Commissioner of Income Tax, Central-3 v. Abhisar Buildwell P. Ltd., Civil Appeal No. 6580/2021, more

[11] 2023 SCC OnLine SC 818

particularly, paragraphs 11 and 13, has prayed to observe that the Revenue may be permitted to initiate re -assessment proceedings under Section 147/148 of the Act as in the aforesaid decision, the powers of the re-assessment of the Revenue even in case of the block assessment under Section 153-A of the Act have been saved.

2. As observed hereinabove, as no incriminating material was found in case of any of the Assessees either from the Assessee or from the third party and the assessments were under Section 153-C of the Act, the High Court has rightly set aside the Assessment Order(s). Therefore, the impugned judgment and order(s) passed by the High Court do not require any interference by this Court. Hence, all these appeals deserve to the dismissed and are accordingly dismissed.

3. However, so far as the prayer made on behalf of the Revenue to permit them to initiate the re-assessment proceedings is concerned, it is observed that it will be open for the Revenue to initiate the reassessment proceedings in accordance with law and if it is permissible under the law.

4. With this, all these appeals are dismissed/disposed of."

16. As would be apparent from the aforesaid extract of the said order, a prayer appears to have been made on behalf of the Revenue for an observation being entered enabling it to initiate reassessment proceedings under Section 147. While dealing with the aforesaid, the Supreme Court observed that it would be open for the Revenue to initiate reassessment in accordance with law and "*if it is permissible under the law*".

17. It appears that after the Supreme Court had rendered judgment on *Abhisar Buildwell*, a **Miscellaneous Application**[12] came to be filed at the behest of the Revenue seeking appropriate clarifications including the waiver of limitation in terms as contemplated in Section 150(2). That application came to be disposed of on 12 May 2023 with the Supreme Court holding:

"Present Miscellaneous Application has been preferred by the Revenue seeking following prayers:

[12] MA

"(*a*) This Hon'ble Court may clarify that the waiver of limitation as stipulated in section 150(2) is to be read in respect of the date of issue of notice for reassessment under section 148 (i.e.) if as on the date the assessment under section 153A or section 153C was passed, a notice under section 148 could have been issued as per the law then in force, then fresh proceedings for reassessment of such income not arising from the incriminating material found in search can now be initiated pursuant to the findings of this Hon'ble Court in the present appeals/application and may further clarify as follows:

(*i*) That the findings in para 11 and 14 would apply to all the proceedings pending in all the forums including before this Hon'ble Court.

(*ii*) That even though the appeals of the Revenue are dismissed in respect of assessments passed under 153A and 153C, in the absence of incriminating material found during the search, in respect of such income which was found to have escaped assessment other than through incriminating material, the assessing officers would be entitled to reassess such income in terms of section 147/148 read with section 150.

(*iii*) That the Assessing Officer, may if found necessary initiate fresh proceedings within 60 days from date of disposal of this application following the procedure stipulated in section 147-151 of the Act as is in force now."

2. Having gone through the averments made in the application and the prayers, we are of the opinion that the prayers sought can be said to be in the form of review which requires detail consideration at length looking into the importance of the matter. Therefore, the present application in the form of clarification is not entertained and we relegate the Revenue to file an appropriate review application for the relief sought in the present application and as and when such review application is filed the same can be heard in the open court.

3. In view of the above and without further entering into the merits of the application and/or expressing anything on merits on the prayers sought in the present application, the present application is not entertained and we relegate the Revenue to file an appropriate review application seeking the reliefs which are sought in the present application and as and when such review application is filed the same be heard and decided and disposed of in the open court.

4. At the cost of repetition, we observe that as we have not entered into the merits of the present application and we relegate the Revenue to file an appropriate review application, the review

application be decided and disposed of in accordance with law and on its own merits.

5. With this present application stands disposed of."

18. Close on the heels of judgment being pronounced in the *Abhisar Buildwell* batch and the disposal of the subsequent MA that had been preferred therein, the **Central Board of Direct Taxes**[13] came to issue Instruction No. 1/2023 on 23 August 2023. Since the same would be of some significance, we deem it appropriate to extract those instructions in their entirety hereinbelow:

" **INSTRUCTION NO. 1 OF 2023 [F. NO. 279/MISC./M-54/2023-ITJ], DATED 23-8-2023**

1. On 24-4-2023, the Hon'ble Supreme Court delivered a judgment in a batch of Income-tax matters, the lead matter being Principal Commissioner of Income-tax, Central-III v. Abhisar Buildwell Pvt. Ltd. (CA No. 6580 of 2021) (hereinafter referred to as the Case). The matter of the civil appeal pertained to the scope and ambit of section 153A/153C of the Income-tax Act, 1961 (hereinafter referred to as the Act).

2. The Hon'ble Supreme Court in Civil Appeal No. 6634 of 2021 in the case of DCIT Central Circle 20 v. *U.K. Paints (Overseas) Ltd.* [2023] 150 taxmann.com 108 delivered a judgement on 25-4-2023 and dealt with the same issue as was in the case of Abhisar Buildwell case in regard to section 153C of the Act. The Hon'ble Supreme Court in the last paragraph of the judgement held that, "However, so far as the prayer made on behalf of the Revenue to permit them to initiate the reassessment proceedings is concerned, it is observed that it will be open for the revenue to initiate the reassessment proceedings in accordance with law and if permissible under the law."

Background

3. Notices under section 153A were issued for block period (six assessment years prior to year of search) and orders were passed considering incriminating material and other material available with the Assessing Officer (hereinafter referred to as the AO). Further, for a search initiated or requisition made after 1-4-2017, notices for four more years (7th to 10th) could also be issued, if 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. In some cases, orders were

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passed considering only other material available in the record in the absence of incriminating material. Hon'ble Delhi High Court delivered a decision on 28-8-2015 in the case of Kabul Chawla [ITA No. 707 of 2014 (*Commissioner of Income-tax (Central)-III* v. *Kabul Chawla*)]. It was held that the AO does not have jurisdiction for passing order under Section 153A in the absence of incriminating material found during the search under section 132 or requisition made under section 132A of the Act.

4. Hon'ble Supreme Court in the cases of Abhisar Buildwell (cited *supra*) and U.K. Paints (Overseas) Ltd. (cited *supra*), accordingly provided power to the AO to reopen the completed/unabated assessments u/s 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under section 147/148 of the Act, in cases where no incriminating material is found during the search.

5. The implementation of the judgment of Hon'ble Supreme Court is required to be done in uniform manner. Accordingly, in exercise of its power under section 119 of the Act, the Central Board of Direct Taxes (hereinafter referred to as "the Board") directs that the following may be taken into consideration while implementing this judgment.

6. Scenarios and action suggested to betaken

6.1 Considering that (*i*) significant time has elapsed from the decisions received in completed cases wherein the assessment was made based on the 'other material' and to provide tax certainty to the taxpayers, the Board has decided that no action is required to be taken under section 147/148 of the Act in cases (except cases covered by paragraph 7.2.1 below) where decisions of the appellate authorities have become final because these decisions have not been contested further in appeal. Further, it is decided that the said judgement is required to be applied in the following cases only:

(*a*) The lead and tagged cases in the said judgment.

(*b*) All cases which are pending at appellate levels or before AO or any tax authority.

(*c*) All cases in which contrary decisions has been given by appellate authorities after the Apex Court judgment in the Abhisar Buildwell case dated 24-4-2023.

7. In this regard, the AOs would have to divide the cases impacted by the judgment into two broad categories i.e.,

(I) pending/abated assessments, and

(II) completed/unabated assessments.

Pending/abated assessments—

7.1 The AO would be required to ascertain assessments falling in the category of assessments that became abated on the date of search or requisition. In such cases, if any proceedings initiated or any order of assessment or reassessment have been annulled in appeal or in any other legal proceedings the same shall stand revived from the date of receipt of order of annulment as per provisions of section 153A(2) of the Act, and AO would need to take necessary action as per provisions of section 153A(2) read with section 153(8) of the Act, in respect of such pending/abated assessments. Provisions of Section 153A(2) and Section 153(8) of the Act are reproduced as hereunder for ready reference:

Section 153A(2)

> "[(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.]"
>
> Section 153(8)
>
> "Notwithstanding anything contained in the foregoing provisions of this section, subsection (2) of section 153A or sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within a period of one year W.P.(C)-5721-2024 189 from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later."

Completed/unabated assessments—

7.2 In respect of cases that were unabated/completed at the time of issue of notices under section 153A/153C and assessments made, the following scenarios will emerge:

7.2.1 In the lead and all the tagged cases, necessary action u/s 148/147 need to be taken in the situation stated by the Court in the para 14(*iv*) of the said order in view of section 150 of the Act. The AO will be required to reopen the cases following the currently applicable procedure for reopening *i.e.*, following the procedure prescribed under section 148A of the Act as inserted by Finance

Act, 2021 in accordance with the law laid down by Hon'ble Supreme Court by its order dated 4-5-2022 in *Union of India* v. *Ashish Agarwal* case (2022 SSC Online SC 543). In view of the specific provisions of section 153(6) of the Act, all the cases reopened u/s 147/148 of the Act will be required to be completed by 30th April, 2024.

7.2.2 Cases where appeal is pending (filed either by the Department or assessee or both).

Appellate level	CIT(A)	ITAT	High Court
Action to be taken	The said judgment is required to be brought to the notice of CIT(A).	The departmental Representative should bring the said judgment to the notice of the ITAT in the cases covered by the judgement.	The Standing Counsel should bring the said judgment to the notice of the High Court in the cases covered by the judgement.

Further, as and when the appeals are disposed of by the appellate authorities, action might be required to be taken by AO in appropriate cases under sections 147/148 of the Act read with section 150 of the Act. It is reiterated that the AO will be required to reopen the cases following the currently applicable procedure for reopening as given in para 7.2.1, above.

7.2.3 In all cases where the decisions of appellate authorities rendered after the Apex Court judgment in the Abhisar Buildwell case dated 24-4-2023 are inconsistent with the same, necessary action may be taken to fife Miscellaneous Application (MA) and Notice of Motion (NoM) to the ITAT and High Court, respectively, requesting the review of the decision in line with the Abhisar judgment, with a prayer of condonation of delay, wherever necessary. It is brought to attention that the time limit for filing Miscellaneous Application before ITAT is 6 months from the end of the month in which order is passed by the ITAT, as per section 254 of the Act. On receipt of the decision of the Hon'ble ITAT/High Court, as the case may be, necessary action as per law and extant instruction should be taken.

Suggestive template for Miscellaneous Application and Notice of Motion is attached for reference purpose. The facts of the case will be required to be mentioned in the Miscellaneous Application or Notice of Motion.

8. Procedure required to be followed by the field formations to comply with the Supreme Court judgment:

8.1 The procedure required to be followed by the AO, in compliance with the order of the Hon'ble Supreme Court, is as under:

(*i*) Every AO would have to ascertain which assessments fall in the category of abated assessments and unabated assessments.

(*ii*) Out of abated assessment cases, those that have been annulled by an appellate authority on some technical ground or otherwise, may be potential cases for revival u/s 153A(2) of the Act.

(*iii*) In respect of unabated assessment cases, the AO shall ascertain the facts of the case in hand and take necessary action as per para 7.2 above.

(*iv*) The Hon'ble Supreme Court has held that completed/unabated assessments can be reopened by the AO in exercise of powers u/s 147/148 of the Act, subject to fulfilment of the conditions specified in those sections. The time limit for the issue of notice u/s 148 would be in accordance with the provisions of Section 150 of the Act.

(*v*) For the issue of applicability of the conditions for reopening the assessments at the relevant time, the monetary limits applicable at present would apply while reopening assessment of earfier years.

(*vi*) Regarding sanction for issue of notice u/s 151 of the Act the current provisions of the section will apply.

(*vii*) Action would be required to be taken under sections 147/148 of the Act, read with section 160 of the Act, in cases pending before any appellate authority and depending on the decision, as and when the appellate orders are passed under sections 251, 254 and 260A of the Act.

8.2 The field authorities need to take necessary actions within time limits as mentioned below:

(*a*) In lead and tagged cases:

- 148A proceedings to be initiated by: 30th September, 2023.

- proceedings u/s 147/148 to be completed by: 30th April, 2024.

(*b*) In cases where decisions given by appellate authorities after 24-4-2023 are not in consonance with the Supreme Court decision in the case of Abhisar Buildwell:

- Identification of cases where action is to be taken by: 30th September, 2023.

- Filing of Miscellaneous Application/Notice of Motion by: 30th November, 2023.

Specimen Miscellaneous Application (MA) to file before ITAT

To,

Dated:

The Registrar

ITAT Bench. . . .

Subject: Miscellaneous Application in the Case of. . . . . . . in the light of Hon'ble Supreme Court Judgement in the Case of *Pr.CIT (Central)-3* v. *Abhisar Buildwell Pvt Ltd.* Civil Appeal No. 6580 of 2021, dated 24-4-2023.

Madam/Sir,

Refer to the appeal in the Case of. . . . . . . Order dated:. . . . .

2. The Hon'ble Apex Court *vide* the abovementioned judgment in the Case of *Pr.CIT (Central)-3* v. *Abhisar Buildwell Pvt Ltd.* Civil Appeal No. 6580 of 2021 dated 24-4- 2023, has held that—

(*i*) that in Case of search under Section 132 or requisition under Section 132A, the AO assumes the jurisdiction for block assessment under section 153A;

(*ii*) all pending assessments/reassessments shall stand abated;

(*iii*) in Case any incriminating material is found/unearthed, even, in Case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and

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

3. The issue involved in the present case decided by the Hon'ble Bench *vide* Order dated . . . . (ITA No.. . ..) have similar issue as

per the law declared by the Supreme Court in above mentioned judgment of the Hon'ble Apex Court.

4. In view of the Article 141 of the Constitution of India, the *ratio decidendi* of the abovementioned judgment by the Hon'ble Supreme Court is binding to all courts within the territory of India. Therefore, this Misc. Application is being filed with prayer of condonation of delay of . . . . days, with a request that the Order dated (ITA No . . .) may be reconsidered by Hon'ble ITAT in view of Hon'ble Apex Court's judgment (Civil Appeal No.6580 of 2021).

[Note: The Misc. Application will require to be filed through CIT(DR)/Sr(AR) and the procedure laid down by the ITAT in the matter will require to be followed],

Specimen Notice of Motion (NoM) to file in High Court

To,

Dated:

The Registrar

High Court of . . .

Subject: Notice of Motion in the Case of . . . . in the light of Hon'ble Supreme Court Judgement in the Case of Pr.CIT (Central)-3 vs Abhisar Buildwell Pvt Ltd. Civil Appeal No. 6580 of 2021 dated 24.04.2023.

Refer to the appeal in the Case of . . . . Order dated: . . . . . .

2. The Hon'ble Apex Court *vide* the above-mentioned judgement in the Case of *Pr.CIT (Central)-3* v. *Abhisar Buildwell Pvt. Ltd.* Civil Appeal No. 6580 of 2021, dated 24-4- 2023, has held that:

(*i*) that in Case of search under Section 132 or requisition under Section 132A, the AO assumes the jurisdiction for block assessment under section 153A;

(*ii*) all pending assessments/reassessments shall stand abated;

(*iii*) in Case any incriminating material is found/unearthed, even, in Case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and

(*iv*) in Case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during

the course of search under Section 132 or requisition under Section 132A of the Act, 1961. However, the completed/unabated assessments can be reopened by the AO in exercise of powers under Section 147/148 of the Act subject to fulfilment of the conditions as envisaged/mentioned under section 147/148 of the Act and those powers are saved.

3. The issue involved in the present Case decided by the Hon'ble High Court *vide* Order dated . . . (ITA No . . .) have similar issue as per above mentioned decision of the Hon'ble Apex Court.

4. In view of the Article 141 of the Constitution of India, the *ratio decidendi* of the abovementioned judgment by the Hon'ble Supreme Court is binding on all courts within the territory of India. Therefore, this Notice of Motion is being filed with prayer of condonation of delay of days, with a request that the Order dated . . . (ITA No . . .) may be reconsidered by Hon'ble High Court in view of Hon'ble Apex court's judgment (Civil Appeal No. 6580 of 2021).

[Note: The Notice of Motion will require to be filed through Sr./Jr. Standing Counsel and the procedure laid down by the Court in the matter will require to be followed].

Tanmay Sharma
Jt. CIT(OSD)-ITJ, CBDT
New Delhi"

19. It appears that construing the aforenoted observations of the Supreme Court in *Abhisar Buildwell* and where reference had been made to Sections 147/148 as a "*finding or direction*", the CBDT called upon AOs' to re-examine all search assessment cases which had come to be set at naught by virtue of declarations of nullity rendered either by the Tribunal or the High Courts and to examine the feasibility of commencing reassessment action. While issuing the aforesaid advisory, the CBDT observed that in respect of pending or abated assessments if orders have come to be annulled in appeal or in any other legal proceedings, the same would stand revived. It was further observed that insofar as completed assessments are concerned, the AOs' would be required to reopen cases following the procedure for reassessment as existing in the Act. The Instruction laid emphasis on the Supreme Court

in *Abhisar Buildwell* having observed that completed assessments could be reopened in exercise of powers conferred by Section 147/148 of the Act and the time limit for the issuance of such a notice guided by the provisions of Section 150.

20. Subsequent to the issuance of the aforenoted CBDT Instruction and pursuant to a Scheme of Arrangement sanctioned by the National Company Law Tribunal, ABPL was merged with DSL with effect from 25 September 2023. Notwithstanding the same, notices were issued thereafter under Section 148A(b) on 27 September 2023 in the name of the erstwhile ABPL entity, based on the observations made in the special audit report and which culminated in an order and a consequential notice being framed under respective Sections 148A(d) and 148 on 30 November 2023.

21. It becomes pertinent to note that the substratum of the Section 148A(b) notice and on the anvil of which the order of Section 148A(d) had been passed, had been answered in favour of ABPL vide an order of the Tribunal dated 17 January 2024 for AY 2018-19. However and on the basis of the CBDT Instructions, the respondents sought to initiate reassessment proceedings by issuing a notice under Section 148A(b) and which culminated in the order framed under Section 148A(d) on 30 March 2024 and the notice impugned before us of even date for AY 2007-08.

22. Insofar as W.P.(C) 1892/2024 is concerned, we take note of the following facts which led to the institution of the aforenoted writ petition. The writ petitioner assails the reassessment action pertaining to AY 2008-09 and which was initiated by the issuance of a notice on 29 September 2023 under Section 148A(b). This was preceded by a

search and seizure action which is stated to have been undertaken in the case of M/s Earth Infrastructures Ltd. and M/s Real Gains Estate Private Limited on 16 January 2013. It was the case of the respondents that during the search, certain documents pertaining to the present writ petitioner were also found and which led to the issuance of a notice under Section 153C. The aforesaid action was assailed by the writ petitioner by way of W.P(C) 2768/2016 and which came to be allowed by the Court on 25 April 2017. The Court essentially took note of the decisions rendered in *Kabul Chawla* and **Commissioner of Income-tax v. RRJ Securities Ltd.**[14] to ultimately come to the conclusion that the documents which had been unearthed in the course of the search would not satisfy the test of incriminating material and that consequently, the assessment under Section 153C would not sustain.

23. The appeal of the Department in the case of the writ petitioner is stated to have formed part of the batch of Civil Appeals before the Supreme Court headed by *U.K. Paints (Overseas) Ltd.* and which ultimately came to be disposed of on 25 April 2023 in terms aforenoted.

24. The writ petitioners contend that the respondents have clearly misconstrued the decision in *Abhisar Buildwell* as constituting a finding or direction warranting initiation of action under Section 148 of the Act. It was submitted that the Supreme Court in *Abhisar Buildwell* had merely, and in passing, observed that since the search assessment proceedings could not be sustained, it would be open for the respondents to initiate reassessment, if otherwise permissible in law.

25. Leading submissions on behalf of the writ petitioners, Mr. Vohra, learned senior counsel, submitted that the limited liberty which was

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[14] 2015 SCC OnLine Del 13085

accorded by the Supreme Court cannot possibly be viewed as constituting a finding or a direction as contemplated under Section 150 of the Act. Mr. Vohra placed reliance on a recent decision handed down by us in **Pr. Commissioner of Income Tax-7 v. Sumitomo Corporation India (P) Ltd.**[15] and where we had explained the scope of Section 150 as under:-

> "**56.** More fundamentally, a direction, in terms as commended for our consideration by learned counsels appearing for the Revenue, would also not be a finding or direction as contemplated therein. Mr. Vohra, in this context, invited our attention to the judgment of the Constitution Bench in *Income Tax Officer, A Ward, Sitapur v. Murlidhar Bhagwan Das* where the expression "finding" and "direction" was explained in the following words:—
>
> > "**9.** Now, let us scrutinize the expressions on which strong reliance is placed for the contrary conclusion. The words relied upon are "section limiting the time", "any person", "in consequence of or to give effect to any finding or direction". Pointing out that before the amendment the word
> >
> > "sub section" was in the proviso but it was replaced by the expression "section", it is contended that this particular amendment will be otiose if it is confined to the assessment year under appeal, for it is said that under no circumstances the Income-tax Officer would have to initiate proceedings for the said year pursuant to an order made by an Appellate Assistant Commissioner. This contention is obviously untenable. The Appellate Assistant Commissioner or the Appellate Tribunal may set aside the notice itself for one reason or other and in that event the Income-tax Officer may have to initiate the proceedings once again in which case Section 34(1) will be attracted. The expression "finding or direction", the argument proceeds, is wide enough to take in at any rate a finding that is necessary to dispose of the appeal or directions which Appellate Assistant Commissioners have in practice been issuing in respect of assessments of the years other than those before them in appeal. What does the expression "finding" in the proviso to sub-section (3) of Section 34 of the Act mean? "Finding" has not been defined in the Income-tax Act. Order 20 Rule 5 of the Code of Civil Procedure reads:
> >
> > "In suits in which issues have been framed, the Court

[15] 2024 SCC OnLine Del 6125

> shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit."

Under this Order, a "finding" is, therefore, a decision on an issue framed in a suit. The second part of the rule shows that such a finding shall be one which by its own force or in combination with findings on other issues should lead to the decision of the suit itself. That is to say, the finding shall be one which is necessary for the disposal of the suit. The scope of the meaning of the expression "finding" is considered by a Division Bench of the Allahabad High Court in *Pt. Hazari Lal v. Income-tax Officer, Kanpur*. There, the learned Judges pointed out:

> "The word "finding', interpreted in the sense indicated by us above, will only cover material questions which arise in a particular case for decision by the authority hearing the case or the appeal which, being necessary for passing the final order or giving the, final decision in the appeal, has been the subject of controversy between the interested parties or on which the parties concerned have been given a hearing."

We agree with this definition of "finding". But a Full Bench of the same High Court in *Lakshman Prakash v. CIT* construed the word "finding" in a rather comprehensive way. Desai, C.J., speaking for the Court, observed:

> "A finding is nothing but what one finds or decides and a decision on a question even though not absolutely necessary or not called for is a finding."

If that be the correct meaning, any finding on an irrelevant or extraneous matter would be a finding. That certainly cannot be the intention of the Legislature. The Madras High Court also in *A.S. Khader Ismail v. Income-tax Officer, Salem* gave a very wide interpretation to that word, though it did not go so far as the Full Bench of the Allahabad High Court. Ramachandra Iyer J., as he then was, speaking for the Court, observed that the word "finding" in the proviso must be given a wide significance so as to include not only findings necessary for the disposal of the appeal but also findings which were incidental to it. With respect, this interpretation also is inconsistent with the well-known meaning of that expression in the legal terminology. Indeed, learned counsel for the respondent himself will not go so far, for he concedes that the expression "finding" cannot be any incidental finding, but says that it must be a conclusion

> on a material question necessary for the disposal of the appeal, though it need not necessarily conclude the appeal. This concession does not materially differ from the definition we have given, but the difference lies in the application of that definition to the finding given in the present case. A "finding", therefore, can be only that which is necessary for the disposal of an appeal in respect of an assessment of a particular year. The Appellate Assistant Commissioner may hold, on the evidence, that the income shown by the assessee is not the income for the relevant year and thereby exclude that income from the assessment of the year under appeal. The finding in that context is that that income does not belong to the relevant year. He may incidentally find that the income belongs to another year, but that is not a finding necessary for the disposal of an appeal in respect of the year of assessment in question. The expression "direction" cannot be construed in vacuum, but must be collated to the directions which the Appellate Assistant Commissioner can give under Section 31. Under that section he can give directions, inter alia, under Section 31 (3) (b), (c) or (e) or s. 31 (4). The expression "directions" in the proviso could only refer to the directions which the Appellate Assistant Commissioner or other tribunals can issue under the powers conferred on him or them under the respective sections. Therefore, the expression "finding" as well as the expression "direction" can be given full meaning, namely, that the finding is a finding necessary for giving relief in respect of the assessment of the year in question and the direction is a direction which the appellate or revisional authority, as the case may be, is, empowered to give under the sections mentioned therein. The words "in consequence of or to give effect to" do not create any difficulty, for they have to be collated with, and cannot enlarge, the scope of the finding or direction under the proviso. If the scope is limited as aforesaid, the said words also must be related to the scope of the findings and directions"

57. As is manifest from the above, a finding was explained to mean a conclusion arrived at on a material question necessary for the disposal of a cause laid before an appellate authority and essential for according relief in an assessment year. A direction was defined as one which the appellate authority was empowered to issue under the Act.

58. However, a direction in terms as suggested by the respondents would clearly not fall within either of those two expressions since what we are essentially invited to do is to extend the period of limitation that otherwise stands prescribed under the Act. The

finding that we have arrived at is that it was imperative for the AO to frame an order in draft as opposed to a final order of assessment. Any consequential direction that could be framed would have to be in consonance with the aforesaid finding. That direction would additionally and necessarily have to be in accordance with the scheme of the Act and the statutory prescriptions comprised therein. The same would clearly not warrant or justify the Court enlarging the period of limitation as statutorily prescribed. As is well settled, while courts may, where legally permissible, consider condonation of delay, they are not entitled to expand or enlarge a period of limitation as statutorily prescribed."

26. Mr. Vohra submitted that the issue of whether a finding or direction would enable the respondents to assume power to reassess despite statutory limitations was one which had also been examined by the Court in **Orchid Infrastructure Developers Pvt. Ltd. v. Principal Commissioner of Income-tax**[16].

27. It becomes relevant to note that *Orchid Infrastructure* too constituted a challenge pertaining to a reassessment action initiated under Section 148 of the Act, notwithstanding a settlement having been ordered by the **Income Tax Settlement Commission**[17] under Section 245D(4). The settlement had come to be rendered post the closure of assessment which itself was predicated upon a search and an order of assessment framed under Section 153A against the writ petitioners. There too, the respondents had sought to draw sustenance from the judgment in *Abhisar Buildwell* as well as the CBDT instructions which have been noticed above.

28. The Court in *Orchid Infrastructure* firstly bore in consideration the finality that comes to be attached to a settlement that may be rendered by the ITSC and observed as follows:-

"**28.** Thus, considering the foregoing discussion, it is seen that the

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[16] 2023 SCC OnLine Del 1915

[17] ITSC

> order of the Income-tax Settlement Commission is deemed to be conclusive for all the matters pertaining to the concerned assessment year for which the settlement application has been accepted and processed by the Income-tax Settlement Commission. In case, the Income-tax Department is not satisfied with the computation of income by the Income-tax Settlement Commission for the relevant assessment year, the same could only be assailed in accordance with the provisions contemplated under section 245D(6) read with section 245D(7) of the Act. The legislative scheme envisaged for the Income-tax Settlement Commission is self-contained in nature and the intent appears to be to facilitate a mutually satisfactory arrangement which could not be reopened, unless explicitly covered under the textual exceptions of fraud or misrepresentation.
>
> **29.** In the instant case, the application of the petitioner was accepted and the proceedings were initiated therein by the Income-tax Settlement Commission after the second search and seizure operation was conducted by the respondent on March 5, 2013. Thus, undoubtedly, since the Income-tax Settlement Commission was already held up with the concerned assessment year, including the aspects raised by the respondent in the present petition, the Assessing Officer cannot be allowed to exercise jurisdiction to reopen the proceedings under the guise of section 147/148 of the Act for the relevant assessment year in consideration. As already settled by a catena of judgments, some of which are already discussed above, allowing the Assessing Officer to proceed with the impugned notices and order for reopening the assessment for the concerned assessment year would create a situation of downright chaos and vagueness. Put otherwise, it would tantamount to simultaneous existence of two concomitant and materially different assessment orders for the same assessment year, which is completely impermissible as per the provisions of the Act and the aforementioned judicial pronouncements."

29. Proceeding further to examine whether the observations in *Abhisar Buildwell* could constitute a finding or a direction, and which may have sustained a reassessment action, the Court in *Orchid Infrastructure* held as follows:-

> "**32.** Further, the respondent has strenuously relied upon sub-section (1) of section 150 of the Act in juxtaposition with the decision in *Abhisar Buildwell P. Ltd.*, to contend that the same confers an authority on the respondent to issue the impugned notices and reopen the completed assessments under section 147 /148 of the Act. At this juncture, it is significant to extract section 150 of the Act, which reads as under:

> "150. Provision for cases where assessment is in pursuance of an order on appeal, etc.- (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a court in any proceeding under any other law.
>
> (2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken."

33. The aforesaid section 150 (1) of the Act, which begins with a non obstante clause to outweigh the mandate of section 149 of the Act, stipulates that a notice under section 148 of the Act may be issued at any time to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a court in any proceeding under any other law. Reliance has been placed by the respondent on paragraph 14(iv) in *Abhisar Buildwell P. Ltd.* to consider it as a direction or finding of the court to issue the impugned notices. The relevant extract of the said decision is culled out as under:

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

34. <u>A plain reading of the aforesaid extract of the judgment does</u>

not lead us to satisfactorily concur with the contention raised by the respondent, that the said paragraph be construed as a "direction" for reopening the assessment under section 147/148 of the Act in the case at hand. Even otherwise, the prayer with respect to reopening the assessment taking recourse to section 150 of the Act akin to the instant case, was sought by the Revenue in a Miscellaneous Application titled as *Pr. CIT v. Abhisar Buildwell P. Ltd.* in the case of *Abhisar Buildwell P. Ltd*. The hon'ble Supreme Court refused to entertain the said clarification application qua the prayers sought therein and held as under:

> "1. Present miscellaneous application has been preferred by the Revenue seeking following prayers :
>
> > "(a) This hon'ble court may clarify that the waiver of limitation as stipulated in section 150 (2) is to be read in respect of the date of issue of notice for reassessment under section 148 (i.e.) if as on the date the assessment under section 153A or section 153C was passed, a notice under section 148 could have been issued as per the law then in force, then fresh proceedings for reassessment of such income not arising from the incriminating material found in search can now be initiated pursuant to the findings of this Hon'ble Court in the present appeals/application and may further clarify as follows:
> >
> > (i) That the findings in paras 11 and 14 would apply to all the proceedings pending in all the forums including before this Hon'ble Court.
> >
> > (ii) That even though the appeals of the Revenue are dismissed in respect of assessments passed under 153A and 153C, in the absence of incriminating material found during the search, in respect of such income which was found to have escaped assessment other than through incriminating material, the assessing officers would be entitled to reassess such income in terms of section 147/148 read with section 150.
> >
> > (iii) That the Assessing Officer, may if found necessary initiate fresh proceedings within 60 days from date of disposal of this application following the procedure stipulated in section 147-151 of the Act as is in force now."
>
> 2. Having gone through the averments made in the application and the prayers, we are of the opinion that the prayers sought can be said to be in the form of review which requires detail consideration at length looking into the importance of the matter. Therefore, the present application

in the form of clarification is not entertained and we relegate the Revenue to file an appropriate review application for the relief sought in the present application and as and when such review application is filed the same can be heard in the open court.

3. In view of the above and without further entering into the merits of the application and/or expressing anything on merits on the prayers sought in the present application, the present application is not entertained and we relegate the Revenue to file an appropriate review application seeking the reliefs which are sought in the present application and as and when such review application is filed the same be heard and decided and disposed of in the open court.

4. At the cost of repetition, we observe that as we have not entered into the merits of the present application and we relegate the Revenue to file an appropriate review application, the review application be decided and disposed of in accordance with law and on its own merits.

5. With this present application stands disposed of.

(emphasis supplied)"

30. In view of the aforesaid verdicts, it was Mr. Vohra's submission that the respondents cannot possibly seek to contend that the observations in *Abhisar Buildwell* would fall within the scope of Section 150 and thus enabling them to overcome the statutory prescription of limitation which otherwise governs the initiation of reassessment.

31. Mr. Vohra also invited our attention to sub-section (2) of Section 150, and which, according to learned senior counsel, operates as an additional fetter upon the assumption of jurisdiction by the respondents while seeking to overcome the limitation which otherwise stands erected by virtue of Section 149 of the Act. Section 150 is extracted hereinbelow:-

"**Provision for cases where assessment is in pursuance of an order on appeal, etc.-**

150. (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose

> of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision [or by a Court in any proceeding under any other law].
>
> (2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken."

32. Both Mr. Aggarwal as well as Mr. Gupta, learned counsels appearing for the respondents submitted that the Supreme Court in *Abhisar Buildwell*, being conscious of the amount of time which had been spent in the litigation which had ensued and the controversy surrounding the scope of search assessments had sought to salvage the situation by balancing the interest of the assessee as well as the Revenue by enabling the respondents to commence action under Section 148. According to learned counsels, the observation of the Supreme Court in *Abhisar Buildwell* were correctly construed by the CBDT as amounting to a finding and direction empowering the respondents to initiate reassessment action in accordance with Section 150.

33. Learned counsels laid stress upon the non obstante clause which prefaces Section 150 (1) as being demonstrative of the Legislature seeking to confer an overriding effect upon that provision and thus not being bound by the prescriptions of limitation which are otherwise found in Section 149 of the Act. According to learned counsels, principles of equity would also warrant the period consumed in the course of litigation being excluded and the respondents being

recognized to have validly initiated the process for assessment.

34. We at the outset note that the interconnection between material that may be gathered in the course of a search and the same being foundational to the invocation of Sections 153A or 153C of the Act, was one which had been clearly enunciated and consistently followed at least by this Court and which undeniably constituted the jurisdictional High Court. The requirement of incriminating material and the same alone being pertinent for the purposes of assumption of jurisdiction under Section 153C or for that matter additions proposed under an assessment under Section 153A was one which had been clearly recognized by the Court both in *Kabul Chawla* as well as *RRJ Securities*. Both were decisions which were rendered way back in 2015 and had been consistently followed by the appellate authorities, the Tribunal as well as this Court.

35. The position, as enunciated in *Kabul Chawla* was again reiterated by the Court while dealing with a batch of writ petitions assailing initiation of action under Section 153C in **Saksham Commodities Limited v. Income Tax Officer Ward 22(1), Delhi and Another[18].** While answering the question of incriminating material, its impact on the entire block period of assessment as well as whether the same would have a "cascading effect", we had in *Saksham Commodities* observed as follows:-

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

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

49. That takes us to the principal question and which pertains to the nature of the incriminating material that may be obtained and the years forming part of the block which would merit being thrown open. Regard must be had to the fact that while Section 153C enables and empowers the jurisdictional AO to commence assessment or reassessment for a block of six AYs' or the "*relevant assessment year*", that action is founded on satisfaction being reached that the books of accounts, documents or assets seized "*have a bearing on the determination of the total income of such other person*". We in this regard bear in mind the well settled distinction which the law recognizes between the existence of power and the exercise thereof. Section 153C enables and empowers the jurisdictional AO to assess or reassess the six AYs' or the "*relevant assessment year*". The Act thus sanctions and confers an authority upon the AO to exercise the power placed in its hands for up to a maximum of ten AYs'. Despite the conferral of that power, the question which would remain is whether the facts and circumstances of a particular case warrant or justify the invocation of that power. It is the aforesaid aspect which bids us to reiterate the distinction between the existence and exercise of power.

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

51. Ultimately Section 153C is concerned with books, documents

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

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

36. We had, while rendering judgment on that batch of writ petitions, also had an occasion to notice the judgment of the Supreme Court in *Abhisar Buildwell*. Taking note of the salient principles which had come to be laid down by the Supreme Court in that decision, we had held:-

"**54.** In any case, *Abhisar Buildwell*, in our considered opinion, is a decision which conclusively lays to rest any doubt that could have been possibly harboured. The Supreme Court in unequivocal terms held that absent incriminating material, the AO would not be justified in seeking to assess or reassess completed assessments. Though the aforesaid observations were rendered in the context of completed assessments, the same position would prevail when it comes to assessments which abate pursuant to the issuance of a notice under Section 153C. Here too, the AO would have to firstly

identify the AYs' to which the material gathered in the course of the search may relate and consequently it would only be those assessments which would face the spectre of abatement. The additions here too would have to be based on material that may have been unearthed in the course of the search or on the basis of material requisitioned. The statute thus creates a persistent and enduring connect between the material discovered and the assessment that may be ultimately made. The provision while speaking of AYs' falling within the block of six AYs' or for that matter all years forming part of the block of ten AYs', appears to have been put in place to cover all possible contingencies. The aforesaid provisions clearly appear to have been incorporated and made applicable both with respect to Section 153A as well as Section 153C *ex abundanti cautela*. Which however takes us back to what had been observed earlier, namely, the existence of the power being merely enabling as opposed to a statutory compulsion or an inevitable consequence which was advocated by the respondents.

55. Take for instance a case where the material gathered in the search is contemplated to have an adverse impact on the declarations and disclosures made by an assessee pertaining only to AYs' 2016-2017 and 2017-2018. What we seek to emphasise is that pending assessments for those two years could validly form subject matter of action under Section 153C and pending assessments in that respect would surely abate. However, that by itself would not be sufficient to either reopen or issue notices in respect of AYs' prior to or those falling after those two AYs' and which may otherwise fall within the maximum block period of ten years merely because the statute empowers the AO to do so. Unless the material gathered and recovered is found to have relevancy to the AY which is sought to be subjected to action under Section 153C, it would be legally impermissible for the respondents to invoke those provisions. Consequently, the AO would be bound to ascertain and identify the year to which the material recovered relates. The years which could be then subjected to action under Section 153C would have to necessarily be those in respect of which the assessment is likely to be influenced or impacted by the material discovered. Section 153C neither mandates nor envisages a mechanical or an *en blanc* exercise of power, or to put it differently, one which is uninformed by a consideration of the factors indicated above.

56. We also bear in mind the pertinent observations made in *RRJ Securities* when the Court held that merely because an article or thing may have been recovered in the course of a search would not mean that concluded assessments have to "*necessarily*" be reopened under Section 153C and that those assessments are not

> liable to be revised unless the material obtained have a bearing on the determination of the total income. This aspect was again emphasised in para 38 of *RRJ Securities* with the Court laying stress on the existence of material that may be reflective of undisclosed income being of vital importance. All the aforenoted judgments thus reinforce the requirement of incriminating material having an ineradicable link to the estimation of income for a particular AY."

37. Therefore, today there cannot possibly be any dispute or contestation on the discovery of incriminating material constituting the foundation for any assessment that may be made under Sections 153A or 153C of the Act**.** Any dispute that could have possibly be said to exist was ultimately laid to rest by the Supreme Court in *Abhisar Buildwell*. The only aspect which thus survives for consideration is whether the observations as appearing in *Abhisar Buildwell* could be read as enabling the respondents to overcome the limitation which stands created in terms of Section 149 of the Act.

38. It is pertinent to note that a reference to Sections 147 and 148 of the Act in *Abhisar Buildwell* firstly appears in paragraph 33 of the report and where the Supreme Court observed that in cases where a search does not result in any incriminating material being found, the only remedy that would be available to the Revenue would be to resort to reassessment.

39. However, the Supreme Court caveated that observation by observing that the initiation of reassessment would be "…..*subject to fulfilment of the conditions mentioned in Sections 147/148, as in such a situation, the Revenue cannot be left with no remedy*". This sentiment came to be reiterated with the Supreme Court observing that the power of the Revenue to initiate reassessment must be saved failing which it would be left with no remedy. It was thereafter observed in paragraph

36.4 of the report that insofar as completed or unabated assessments were concerned, they could be reopened by the AO by invocation of Sections 147/148 of the Act, subject to the fulfillment of the conditions "*……as envisaged/mentioned under Sections 147/148 of the Act and those powers are saved*".

40. It thus becomes apparent that the liberty which the Supreme Court accorded and the limited right inhering in the Revenue to initiate reassessment was subject to that power being otherwise compliant with the Chapter pertaining to reassessment as contained in the Act. The observations of the Supreme Court cannot possibly be read or construed as a *carte blanche* enabling the respondents to overcome and override the restrictions that otherwise appear in Section 149 of the Act. The observations of the Supreme Court in *Abhisar Buildwell* were thus intended to merely convey that the annulment of the search assessments would not deprive or denude the Revenue of its power to reassess and which independently existed. However, the Supreme Court being mindful of the statutory prescriptions, which otherwise imbue the commencement of reassessment, qualified that observation by providing that such an action would have to be in accordance with law. This note of caution appears at more than one place in that judgment and is apparent from the Supreme Court observing that the power to reassess would be subject to the fulfilment of the conditions mentioned in Sections 147 and 148 of the Act.

41. We also bear in mind the order passed on the Miscellaneous Application which was moved by the Revenue before the Supreme Court and more particularly to the prayers that were made therein. The Revenue had specifically alluded to Section 150 of the Act and sought

appropriate clarifications enabling it to proceed afresh. It had also sought the liberty to commence proceedings for reassessment within 60 days of the disposal of that application. The said application, however, came to be dismissed with it being left open to the respondents to move a formal application for review, if so chosen and advised. It appears, however, that no such review was ultimately moved.

42. Regard must also be had to the judgment rendered in the batch of *U.K. Paints*, and where while according liberty to the respondents to initiate reassessment, the Supreme Court pertinently observed that the same would be subject to the proposed action being in accordance with law and if "permissible in law". Thus, neither *Abhisar Buildwell* nor *U.K. Paints* are liable to be read as enabling the respondents to overcome the statutory bar of limitation which may have come into play. Those judgments cannot possibly be construed as freeing the respondents from the obligation of independently establishing that the proposed action for reassessment would otherwise be in accordance with law.

43. We had in *Sumitomo Corporation* also taken note of the aspect of limitation and where the respondents had sought to contend that a finding or direction would enable them to overcome the time frames erected by virtue of Section 144C of the Act. An argument, again founded on Section 150, came to be negated with the Court observing that a direction would have to necessarily be in accordance with the scheme of the Act and the statutory prescriptions comprised therein. It was further observed that it would be wholly incorrect for courts to extend a period of limitation that otherwise stands prescribed in the Act.

44. As was explained in *Sumitomo Corporation*, the expression "finding" as occurring in Section 150 of the Act is liable to be understood to be a conclusion or a decision of an authority or tribunal rendered in the context of a particular case and essential for determining the grant of relief. A "direction", we had held, would constitute one which an authority was empowered to issue under the Act. Tested on those precepts, we find ourselves unable to countenance the observations appearing in *Abhisar Buildwell* as amounting to a finding since the principal question in those appeals was with respect to the validity of the search assessments which were undertaken. The Supreme Court had, in order to balance equities, additionally observed that it would be open for the Revenue to commence reassessment, if otherwise permissible in law. That observation cannot be viewed as amounting to a direction which would enable the respondents to overcome the prescription of limitation which otherwise applied.

45. We had, in *Sumitomo Corporation*, also had an occasion to examine Section 153 of the Act, and which by virtue of Explanation 1 spells out the situations in which a particular period is liable to be excluded for the purposes of computing limitation. Section 153 along with the Explanation 1 is extracted hereinbelow:-

> "**Time limit for completion of assessment, reassessment and recomputation.**
>
> **153.** (1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable:
>
> [**Provided** that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

[**Provided** further that in respect of an order of assessment relating to the assessment year commencing on—

(i) the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

(ii) the 1st day of April, 2020, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted.]

[**Provided also** that in respect of an order of assessment relating to the assessment year commencing on [* * *] the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "nine months" had been substituted:]

[**Provided also** *that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2022, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted*.]

[(1A) Notwithstanding anything contained in sub-section (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time before the expiry of [*twelve months*] from the end of the financial year in which such return was furnished.]

(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served:

[**Provided** that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.]

(3) Notwithstanding anything contained in sub-sections (1) [, (*1A*)] and (2), an order of fresh assessment [or fresh order under section 92CA, as the case may be,] in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment, [or an order under section 92CA, as the case may be] may be made at any time before the expiry of nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or, as the case may be, the order under section 263 or section 264 is passed by the [*Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be,*]:

[**Provided** that where the order under section 254 is received by the

Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the [*Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be,*] on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.]

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

(a) in a case where such search is initiated under section 132 or such requisition is made under section 132A;

(b) in the case of an assessee, to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to;

(c) in the case of an assessee, to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to,

be extended by twelve months.]

(4) Notwithstanding anything contained in [*sub-sections (1), (1A), (2), (3) and (3A)*], where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said [*sub-sections (1), (1-A), (2), (3) and (3A)*] shall be extended by twelve months.

(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] wholly or partly, otherwise than by making a fresh assessment or reassessment [or fresh order under section 92CA, as the case may be,] such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by [*the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be,*]:

Provided that where it is not possible for the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] to give effect to such order within the aforesaid period, for reasons beyond his

control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer, [or the Transfer Pricing Officer, as the case may be,] if satisfied, may allow an additional period of six months to give effect to the order:

[**Provided further** that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3).]

[(5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.]

(6) Nothing contained in sub-sections (1) [, (1-A)] and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of [sub-sections (3), (5) and (5-A)], be completed—

(i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the [*Principal Chief Commissioner or Chief Commissioner or*] Principal Commissioner or Commissioner, as the case may be; or

(ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

(7) Where effect to any order, finding or direction referred to in sub-section (5) or sub-section (6) is to be given by the Assessing Officer, within the time specified in the said sub-sections, and such order has been received or passed, as the case may be, by the income-tax authority specified therein before the 1st day of June, 2016, the Assessing Officer shall give effect to such order, finding or direction, or assess, reassess or recompute the income of the assessee, on or before the 31st day of March, 2017.

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

(9) The provisions of this section as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016:

[**Provided** that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in *Explanation 1*, such assessment or reassessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 (28 of 2016).]

Explanation 1.— For the purposes of this section, in computing the period of limitation—

(i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129; or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(iii) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) [, under clause (i) of the first proviso] to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or

(iv) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited [*or inventory valued*] under sub-section (2A) of section 142 and—

(a) ending with the last date on which the assessee is required to furnish a report of such audit [*or inventory valuation*] under that sub-section; or

(b) where such direction is challenged before a court, ending with the date on which the order setting aside such

direction is received by the Principal Commissioner or Commissioner; or

(v) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(vi) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under sub-section (1) of Section 158-A and ending with the date on which the order under sub-section (3) of that section is made by him; or

(vii) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under Section 245-C and ending with the date on which the order under sub-section (1) of Section 245-D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or

(viii) the period commencing from the date on which an application is made before the Authority for Advance Rulings [or before the Board for Advance Rulings] under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(ix) the period commencing from the date on which an application is made before the Authority for Advance Rulings [or before the Board for Advance Rulings] under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or

(x) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(xi) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section

144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the [Assessing Officer; or

(xii) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—

(a) in whose case such search is initiated under Section 132 or such requisition is made under Section 132-A; or

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

(c) to whom any books of account or documents seized or requisitioned pertains or pertains to, or any information contained therein, relates to; or]

[(xiii) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of Section 10 or clause (ii) or clause (iii) of sub-section (4) of Section 12-AB, as the case may be, is received by the Assessing Officer,]

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), [(1A)], (2), (3) and sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation

available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, [* * *] 154, 155 and 158BE and for the purposes of payment of interest under section 244A, this proviso shall also apply accordingly:

[**Provided also** that where the assessee exercises the option to withdraw the application under sub-section (1) of section 245M, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (5) of the said section, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year:

Provided also that for the purposes of determining the period of limitation under sections 149, 154 and 155, and for the purposes of payment of interest under section 244A, the provisions of the fourth proviso shall apply accordingly.]"

46. Undisputedly, none of the clauses of Explanation 1 would be attracted in the facts and circumstances of the present batch. The statute incorporates no provisions in terms of which the period which may have been consumed while pursuing an assessment under Sections 153A or 153C is liable to be excluded if such an action were to be ultimately annulled. The fact that the statute seeks to create rigid time frames within which a reassessment action may be initiated stands fortified by the First Proviso appearing in Section 149, and which came to be introduced in the statute book by Finance Act 2021.

47. Section 149(1), along with its First and the Second Provisos, is accordingly reproduced hereinbelow:-

"**Time limit for notice.**

149. (1) No notice under Section 148 shall be issued for the relevant assessment year, —

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

> [(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—
>
> (i) an asset;
>
> (ii) expenditure in respect of a transaction or in relation to an event or occasion; or
>
> (iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]
>
> **Provided** that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if [a notice under section 148 or section 153-A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (*b*) of sub-section (1) of this section or section 153A or section 153-C, as the case may be], as they stood immediately before the commencement of the Finance Act, 2021:
>
> **Provided further** that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:"

48. It is pertinent to note that both Sections 153A and 153C saw significant amendments which came to be made by virtue of Finance Act, 2021. Both those provisions saw the introduction of a sunset clause and the statute mandating that the scheme of search assessment as introduced in the Act originally by way of Finance Act, 2003 would cease to apply to a search initiated on or after 01 April 2021.

49. Notwithstanding the curtains thus being wrung down on Sections 153A and 153C, the Proviso to Section 149(1) in unambiguous terms provides that in case reassessment is sought to be initiated for a relevant AY falling prior to 01 April 2021, such an action would have to be in conformity with the time limits specified in Sections 149 (1) (b), Sections 153A or 153C, whichever be applicable, and as those

provisions stood immediately before the commencement of Finance Act, 2021. The Proviso is thus representative of a clear legislative policy of reassessments being required to be compliant with time frames which existed in the provisions aforenoted and as they stood before the commencement of Finance Act, 2021.

50. The challenge which stands mounted in these writ petitions was identically raised in **Dinesh Jindal v. Assistant Commissioner of Income Tax and Others[19].** In *Dinesh Jindal* we had an occasion to examine the working of the First Proviso to Section 149(1). On a due consideration of the statutory scheme, we had observed as follows:-

> "**10.** Undisputedly, and if the validity of the reassessment were to be tested on the anvil of Section 153C, the petitioner would be entitled to succeed for the following reasons. It is an undisputed fact that the proceedings under Section 148 commenced on the basis of the impugned notice dated 30 March 2023. This date would be of seminal importance since the period of six AYs' or the "*relevant assessment year*" would have to be reckoned from the date when action was initiated to reopen the assessment pertaining to AY 2013-2014.
>
> **11.** The computation of the six or the block of ten AYs' was explained by us in *Ojjus Medicare Private Limited* in the following terms:
>
> > "**D.** The First Proviso to Section 153C introduces a legal fiction on the basis of which the commencement date for computation of the six year or the ten year block is deemed to be the date of receipt of books of accounts by the jurisdictional AO. The identification of the starting block for the purposes of computation of the six and the ten year period is governed by the First Proviso to Section 153C, which significantly shifts the reference point spoken of in Section 153A(1), while defining the point from which the period of the "*relevant assessment year*" is to be calculated, to the date of receipt of the books of accounts, documents or assets seized by the jurisdictional AO of the non-searched person. The shift of the relevant date in the case of a non-searched person being regulated by the First Proviso of Section 153C(1) is an issue which is no longer res integra

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and stands authoritatively settled by virtue of the decisions of this Court in *SSP Aviation* and *RRJ Securities* as well as the decision of the Supreme Court in *Jasjit Singh*. The aforesaid legal position also stood reiterated by the Supreme Court in *Vikram Sujitkumar Bhatia*. The submission of the respondents, therefore, that the block periods would have to be reckoned with reference to the date of search can neither be countenanced nor accepted.

E. The reckoning of the six AYs' would require one to firstly identify the FY in which the search was undertaken and which would lead to the ascertainment of the AY relevant to the previous year of search. The block of six AYs' would consequently be those which immediately precede the AY relevant to the year of search. In the case of a search assessment undertaken in terms of Section 153C, the solitary distinction would be that the previous year of search would stand substituted by the date or the year in which the books of accounts or documents and assets seized are handed over to the jurisdictional AO as opposed to the year of search which constitutes the basis for an assessment under Section 153A.

F. While the identification and computation of the six AYs' hinges upon the phrase "*immediately preceding the assessment year relevant to the previous year*" of search, the ten year period would have to be reckoned from the 31st day of March of the AY relevant to the year of search. This, since undisputedly, Explanation 1 of Section 153A requires us to reckon it "*from the end of the assessment year*". This distinction would have to necessarily be acknowledged in light of the statute having consciously adopted the phraseology "*immediately preceding*" when it be in relation to the six year period and employing the expression "*from the end of the assessment year*" while speaking of the ten year block."

12. Viewed in that light, it is manifest that AY 2013-2014 would fall beyond the block period of ten years. It becomes pertinent to note that the First Proviso to Section 149(1) compels us to test the validity of initiation of action for reassessment commenced pursuant to a search, based upon it being found that the proceedings would have sustained bearing in mind the timelines prescribed in Sections 149, 153A and 153C, as they existed prior to the commencement of Finance Act, 2021. This necessarily requires us to advert to the timeframes comprised in both Section 149(1)(b) as well as Section 153C as it existed on the statute book prior to 01 April 2021, which undisputedly was the date from when Finance Act, 2021 came into effect.

13. While it is true that Section 153C and the procedure prescribed

therein had ceased to be applicable post 31 March 2021, the First Proviso to Section 149(1) does not appear to suggest that the First Proviso to Section 153C(1) would either become inapplicable or be liable to be ignored. Undisputedly, the First Proviso to Section 153C(1), by virtue of a legal fiction enshrined therein requires one to treat the date of initiation of search, and which otherwise constitutes the commencement point for a search assessment in the case of a non-searched party, to be construed as the date when books of accounts or documents and assets seized or requisitioned are transmitted to the AO of such "other person". Resultantly, the computation of the six preceding AYs' or the "relevant assessment year" in the case of the non-searched entity has to be reckoned from the time when the material unearthed in the search is handed over to the jurisdictional AO. The import of this legal fiction is no longer res integra bearing in mind the judgment of the Supreme Court in *CIT v. Jasjit Singh* and the whole line of precedents rendered by our High Court which were noticed in *Ojjus Medicare Private Limited*. Those decisions have consistently held that in the case of a non-searched entity, it is the date of hand over of material, as opposed to that of the actual search which would constitute the starting point for reckoning the block of six or ten AYs'.

14. However, Section 149(1), as it came to be placed and introduced in the statute book by virtue of Finance Act, 2021, neither effaces nor removes from contemplation the First Proviso to Section 153C(1). Consequently, in cases where a search is conducted after 31 March 2021, the said Proviso would have to be construed and tested with reference to the date when the AO decides to initiate action against the non-searched entity. While in the case of a search initiated after 31 March 2021 there would be no actual hand over of material to the jurisdictional AO, that does not convince us to revert to Section 153A and hold that the block period is liable to be computed from the date of search. That, in our considered opinion, would amount to rewriting Section 153C which would clearly be impermissible.

15. We find ourselves unable to construe or read the First Proviso to Section 149(1) as requiring us to ignore the First Proviso to Section 153C(1), and for the purposes of computation, reconstruct the point from which the "*relevant assessment year*" is liable to be computed in the case of a non-searched person. Notwithstanding the procedure under Section 153C having not been adhered to, by virtue of the search having been conducted after 31 March 2021, there exists no justification to reconstruct the point from which the computational exercise would have to be undertaken. This, since accepting the submission as canvassed by Mr. Meharchandani, would not only amount to a virtual reconstruction of the statutory prescription of limitation, it would also be contrary to the plain and manifest command of the First Proviso to Section 149(1), and

> which compels us to adjudge the validity of reopening based on the test of "*could not have been issued at that time on account of being beyond the time limit specified under………. or Section 153A or Section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021.*"

51. The respondents, in any event, have not doubted the correctness of the terminal dates which would apply to the relevant AYs which form the subject matter of the present batch of writ petitions. The table, which had been extracted by us in the introductory parts of the present judgement, clearly establishes that all the notices under Section 148 impugned herein would fall beyond the date computed in terms of the First Proviso to Section 149(1).

52. The respondents despite the clear enunciation of the legal position with respect to search assessments in terms of our judgements in *Kabul Chawla, RRJ Securities* and a host of others that followed neither chose to initiate any remedial action nor did they adopt a course correction. Nothing fettered the right of the respondents to commence reassessment if they were of the opinion that, notwithstanding absence of incriminating material, escapement of income had occurred. It was open for the respondents to establish that an action for reassessment was warranted independently and irrespective of no adverse material having been found in the course of a search. We thus find ourselves unable to hold in their favour. Consequently, and for all the aforesaid reasons, we find ourselves unable to sustain the reassessment action.

53. The writ petitions are accordingly allowed. We hereby quash the impugned notices under Section 148 dated 30 November 2023 [W.P.(C) 1892/2024], 30 November 2023 [W.P.(C) 1893/2024], 30 November 2023 [W.P.(C) 2479/2024], 30 November 2023 [W.P.(C) 2480/2024], 30 November 2023 [W.P.(C) 2481/2024], 30 November 2023 [W.P.(C)

5568/2024], 30 November 2023 [W.P.(C) 5583/2024], 30 March 2024 [W.P.(C) 5719/2024], 30 March 2024 [W.P.(C) 5721/2024], 30 March 2024 [W.P.(C) 5732/2024], 15 April 2024 [W.P.(C) 5787/2024], 30 November 2023 [W.P.(C) 3329/2024], 23 March 2024 [W.P.(C) 6177/2024], 29 April 2024 [W.P.(C) 12832/2024] and all consequential proceedings emanating therefrom.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 26, 2024/kk/neha