

**2025 (11) TMI 103 - MADRAS HIGH COURT**

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**Shri. Harigovind S/o. Shri Anandkumar Rengaswamy, G Ravindran Huf, Represented By Kartha G Ravindran Versus Assistant Commissioner Of Income Tax Non-corporate, Circle 3 (1), Chennai, Assistant Commissioner Of Income Tax Central Circle 2 (3) Chennai**

No.- W. P. Nos. 23014, 23019, 23023, 23033, 23027, 23031, 23550, 23591, 23594, 23597, 23557, 23562, 23588 & 23024 of 2023 and W. M. P. Nos. 22536, 22544, 22546, 22533, 22534, 22547, 22538, 22543, 22515, 22516, 23116, 23117, 23109, 23111, 23064, 23076, 23079, 23106, 23073, 23113, 23114, 22523, 23107, 23074, 23065, 22525, 22530 & 22531 of 2023

**Dated:- October 28, 2025**

**Validity of notice issued u/s 153C after 01.04.2021** - assessment of income of "other person" - whether the issuance of notice, u/s 153C on 07.02.2023, is in accordance with the provision of Section 153C(3) of the Act? - HELD THAT:- The first proviso to Sub-Section (1) of Section 153C is not only for the purpose of abatement but also for all other purposes, viz., initiation of search for other person in terms of Section 153C(3) of the Act. In such case, the date of initiation of search for the petitioner is the date, on which the documents were handed over to the JAO of the petitioner, i.e., 25.11.2022 is the date of initiation of search for the petitioner.

In terms of Sub-Section (3) of Section 153C, the provision of Section 153C will not apply for any search, which is initiated on or after 01.04.2021.

As stated above, in this case, the date of handing over of seized material to the petitioner's JAO is on 25.11.2022 and the said date is the date of initiation of search for the petitioner. Thus, in the present case, it is crystal clear like cloudless sky that the initiation of search was subsequent to 01.04.2021, for which, the provisions of Section 153C will not apply. Therefore, the impugned notices dated 07.02.2023 is unsustainable and the same were issued without authority and against the provisions of Sub-Section (3) of Section 153C of the Act.

In such view of the matter, all the impugned notices are liable to be quashed and accordingly, all the impugned notices dated 07.02.2023 issued by the 2nd respondent are quashed.

Judgment / Order

**Hon'ble Mr. Justice Krishnan Ramasamy****For the Petitioner in all Petitions : Mr. R. Sivaraman****For the Respondent in all Petitions : Mr. A.P. Srinivas, Sr. St. counsel & Mr.A.N.R.Jayaprathap, Jr.St. counsel****COMMON ORDER**

These writ petitions have been filed challenging the impugned notices dated 07.02.2023 issued under Section 153 of the Income Tax Act, 1961 (hereinafter called as "the Act") issued by the respondent for the AY 2013-2014 to 2019-2020.

2. The writ petitions in W.P.Nos.23019, 23023, 23024, 23027, 23031, 23014 & 23033 of 2023 were filed by one Shri.Harigovind, whereas, the writ petitions in W.P.Nos.23562, 23588, 23591, 23594, 23577, 23550 & 23597 of 2023 were filed by one G.Ravindran HUF. The petitioners in all these writ petitions would be hereinafter referred to as "petitioner".

3. The common issue involved in all these writ petitions is as to whether the issuance of impugned notice, under Section 153C of the Act, is sustainable and in accordance with the provision of said Section of the Act.

4. The learned counsel appearing for the petitioner would submit that in this case, initially, on 29.01.2019, the Income Tax Authorities had conducted a search at 3rd party premises. According to the Authorities, they have received/obtained incriminating materials, pertaining to the petitioner, at the said 3rd party premises. Pursuant to the same, the notice under Section 148A of the Act was issued by the Authorities on 15.03.2022 for the AY 2018-19. Subsequently, the notice under Section 148 of the Act was issued, on 31.03.2022, without granting sufficient opportunity to the petitioner to file objections to the aforesaid notice dated 15.03.2022. Therefore, the petitioner challenged the notice dated 31.03.2022 by way of filing a writ petition in W.P.No.9958 of 2022, wherein this Court, vide order dated 22.04.2022, set aside the notice and directed the concerned officer to issue a fresh hearing.

5. Thereafter, the Assessing Officer-1st respondent had called for objections from the petitioner and accordingly, the petitioner submitted the objections. After considering the said objections, the 1st respondent had dropped the proceedings vide order dated 30.08.2022.

6. After a time lapse of more than 5 months, the 2nd respondent had issued the impugned notice, under Section 153C of the Act, on 07.02.2023 for AYs 2013-14 to 2019-20.

7. Now, the main grievance of the petitioner is that no notice under Section 153C of the Act can be issued after 01.04.2021 for all the AYs in terms of Sub-Section (3) of Section 153C.

8. The learned counsel for the petitioner would submit in this case, the initiation of search shall be construed as reference to the date of receiving the books of account or documents or assets as seized requisitioned by the Assessing Officer having jurisdiction over such other person. Section 153C deals with the assessment of income of "other person".

9. Further, he would submit that in this case, the handing over of seized materials to the Jurisdictional Assessing Officer (JAO) of the petitioner was on 25.11.2022. In such case, the said date has to be construed as the date of initiation of search in terms of Section 153C(3) of the Act, which says that nothing contained in Section 153C shall apply in relation to a search initiated under Section 132 or books of account or documents or assets requisitioned under Section 132A on or after the 1st day of April, 2021.

10. He would also submit that the first proviso to sub section (1) of section 153C says that in the case of such other person, the reference to the date of initiation of search u/s. 132 or making a requisition u/s. 132A shall be construed as reference to the date of receipt by the Assessing Officer having jurisdiction over such other person of the books of account or document or assets seized or requisitioned.

11. Further, he would submit that upon careful reading of the aforesaid provisions shows that the date of receipt, by the 2nd respondent, who is the Assessing Officer of the petitioner herein, of the assets or books of account or documents, is the material date relevant for the first proviso to sub section (1) of section 153C and to sub section (3) thereof and that date being on or after 01.04.2021, the notice dated 07.02.2023 void ab-initio

12. By referring the 1st proviso to Sub-Section (1) of Section 153C and the provisions of Sub-Section (3) of Section 153C, he would submit that on going through the aforesaid provisions (particularly the first proviso and sub-section (3)), it would be crystal clear that in case of "other person" (like the petitioner herein), the date of initiation of the search under section 132 shall be construed to the date of receiving the books of accounts by the 2nd respondent being the Assessing Officer having jurisdiction over such "other person". Hence on interpretation of this proviso along with sub-section (3) to section 153C, it would be clear that post 01.04.2021, Section 153C cannot be invoked as far as the petitioner is concerned. Hence, the notice dated 07.02.2023 is statutorily barred. Thus the entire proceedings are invalid and are to be dropped.

13. Therefore, he would submit that as far as petitioner is concerned, the date, on which the materials were handed over to the concerned JAO, is the relevant date for the initiation of search and thus, he would contend that in this case, the impugned notices dated 07.02.2023 is barred by limitation in terms of Sub-Section (3) of Section 153C of the Act and hence, the same is liable to be quashed.

14. Per contra, the learned Senior Standing counsel appearing for the respondent had referred the judgement rendered by the Hon'ble Supreme Court in the case of *CIT Vs Vijaybhai N. Chandrani* reported in (2013) 357 ITR 713 (SC), wherein it was held that writ petition ought not be entertained against the notices issued u/s 153C.

15. In reply to the submissions made by the petitioner with regard to the provisions of Section 153C(3) of the Act, he would submit that the search assessment provisions both 153A and 153C are applicable for the searches done upto 31.03.2021, and for the searches done after 1.4.2021 the said provisions are not applicable.

16. In this case, the search was done on 29.01.2019 and therefore the search assessment provisions both 153A and 153C are applicable in these cases. Anyhow Section 153A notice is not involved in these cases and 153C notices only issued in these cases.

17. The writ petitioners contends that though the search is done on 29.01.2019, the records have been handed over by the assessing officer of the searched person to the assessing officer of the writ petitioners on 25.11.2022, thus, the said date is the initiation of search as far as the petitioner is concerned and therefore Sec.153C is not applicable. However, according to the respondent, the criteria for applicability of Sec. 153C is the date of search 29.01.2019 and not the date of handing over of seized materials on 25.11.2022.

18. Further, he would contend that the writ petitioners interpretation of first proviso to Section 153C is incorrect and the said first proviso to Section 153C is relevant only for the purpose of abatement and the search assessment depends on the date of search only.

19. In the 1st proviso it has been provided that "in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to sub-section (1) of section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person", which means that the date of initiation of search u/s. 132 in the second proviso to 153A(1) shall be construed as reference to the date of receiving of books of accounts or documents or assets seized by the assessing officer having jurisdiction over such other person. Thus the relevance of handing over of seized documents or assets is relevant for the purpose stated in the second proviso to Sec. 153A(1).

20. In the second proviso to Section 153A(1) of the Act, it has been provided that "assessment or reassessment, if any, relating to any assessment year or years referred to in this sub-section pending on the date of initiation of the year falling within the period of six assessment years and for the relevant assessment search under Section 132 or making of requisition under Section 132A, as the case may be, shall abate", which means the pending assessments within the period of 6 assessment years shall abate.

21. By referring the above proviso, he would submit that the abatement procedure as provided in the second proviso to Section 153A(1) is made applicable to 153C Assessments by virtue of the first proviso to Section 153C of the Act. Therefore, he would contend that the date of handing over of seized assets or documents under 153C is relevant only for the purpose of abatement only and for all other purposes of assessments, date of search is relevant both for 153A and as well as 153C assessments.

22. As per Section 153A, the notice has to be issued for six assessment years and the same is applicable to Section 153C also. Further, Section 153 C is a machinery provision only and the assessment has to be done in accordance with Section 153A only for other persons covered u/s. 153C.

23. By referring the judgement rendered by the Hon'ble Apex Court in the case of *CIT Vs Jasjit Singh* reported in [2023] 458 ITR 437, he would submit that apart from abatement, the first proviso to Section 153(1) is applicable to computation of six assessment years also.

24. Further, by referring the judgement rendered by this Court in the case of *Pavithra Sugichandran Vs DCIT* reported in [2024] 168 taxmann.com 413 (Madras), he would submit that except to the extent expressly modified in section 153C, all the provisions of section 153A, including the block assessment and abatement of pending assessments, apply to the assessment or reassessment of persons referred to in Section 153C of the Act.

25. Therefore, for all the reasons above, he would contend that the submissions of the petitioner, that notices issued u/s. 153C in these cases after 1.4.2021 are without jurisdiction, is incorrect and as the search happened on 29.01.2019 which is prior to 01.04.2021, the notices issued u/s. 153C are valid as per law. Hence, he prays for dismissal of all these writ petitions.

26. I have carefully considered the submissions made by the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondent and also perused the materials available on record.

27. Now, the main issue that is required to be decided is as to whether the issuance of notice, under Section 153C on 07.02.2023, is in accordance with the provision of Section 153C(3) of the Act?

28. According to the petitioner, the initiation of search for the petitioner is the date, on which the materials were handed over by the Assessing Officer of the searched person to the JAO of the petitioner herein. In this regard, a reference was made to the first proviso to Section 153C(1), wherein it was stated that the initiation of search shall be the date, on which the materials were handed over to the concerned JAO, which means, in this case, the date of initiation of search in terms of first proviso to Section 153C(1) is on 25.11.2022, i.e., the date on which the materials were handed over to the JAO of the petitioner.

29. Further, by referring to Sub-Section (3) of Section 153C of the Act, it was contended by the petitioner that if any search was initiated on or after 01.04.2021, no proceedings can be initiated in terms of Section 153C of the Act.

30. In the case on hand, according to the petitioner, the search was initiated on 25.11.2022 and hence, as stated above no proceedings can be initiated in terms of Section 153C of the Act. Thus, the impugned notice came to be issued by the 2nd respondent, illegally and in contrary to Sub-Section (3) of Section 153C of the Act.

31. On the other hand, it was contended by the respondents that the first proviso to Section 153C(1) of the Act would apply only with regard to the abatement of the proceedings for a period of 6 years prior to the relevant date and for all other practical purposes, the initiation of search would be either the date, on which the search was conducted on searched person under Section 132 or on the date of making of requisition under Section 132A of the Act. Hence, according to the respondents, in this case, the application of Sub-Section (3) of Section 153 would not at all come into picture.

32. At this juncture, it would be apposite to extract the provisions of Section 153C of the Act, which reads as follows:

*153C. Assessment of income of any other person.—*

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

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

*(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and] for the relevant assessment year or years referred to in subsection (1) of section 153A*

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

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

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

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

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

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

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

33. A reading of the first proviso to Section 153C(1) would show that the date of initiation of search under Section 132 or making requisition under Section 132A in terms of second proviso to Sub- Section (1) of Section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person. The date of initiation of search referred in the second proviso to Section 153A(1) only deals with respect to the abatement of proceedings.

34. It would also apposite to extract the provisions of Section 153A(1) of the Act, which reads as follows:

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

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

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

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

*Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years:*

**Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate**

35. A reading of the second proviso to Section 153A(1) would show that the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this sub-section, 153C(1) pending on the date of initiation of the search under Section 132 or making of requisition under Section 132A, as the case may be, shall abate. Therefore, any pending proceedings shall be abated as per the above proviso.

36. On the strength of the above second proviso to Section 153A(1), the respondents had strongly contended that the first proviso to Section 153C is only with regard to the abatement of proceedings and not for anything else.

37. On the other hand, the petitioners had contended that it is not only for abatement but for all the other purposes. According to the petitioner, if a particular date is determined for the purpose of abatement of proceedings, then the same would be applicable for all the purposes, including the date of initiation of proceedings under Section 153C against the other person.

38. Even a reading of Section 153C makes it clear that determination of total income of such other person for 6 assessment years immediately preceding the assessment year relevant to the previous year, in which the search was conducted or requisition was made and for the relevant assessment year or years, referred in sub-Section (1) of Section 153C of the Act.

39. As far as the other person is concerned, the six years period would be calculated, the date on which the requisition was made and that would be the date, for the purpose of determination of assessment of income. On the other hand, as far as the searched person is concerned, this 6 years period would vary and the same would be calculated from the date of search made in the premises of searched person. Therefore, for the purpose of initiation and determination of income for 6 assessment years, two different dates have been fixed by the Statute, i.e., for the searched person, it was taken the date of search, whereas, for the other person, it was taken the date, on which the requisition is made to the JAO of the other person.

40. Thus, as far as the searched person is concerned, the date of initiation of search is the date, on which the search was conducted in his premises. The said date would be the date of initiation of search for searched person for all purposes. As far as the other person is concerned, the date of initiation of search would be the date, on which the materials, books of accounts, etc., are handed over to the JAO of the other person and this date would be considered as the date of initiation of search for other person for all purposes. Thus, there cannot be two different date of initiation of search, either for the searched person or for the other person.

41. The provisions of Sub-Section (3) of Section 153C states that

*"153C(3) .....nothing contained in this Section shall apply in relation to a search initiated under Section 132 or books of account, other documents or any assets requisition under Section 132A on or after the 1st day of April, 2021"*

which means, if the search is initiated subsequent to 01.04.2021, the provision of Section 153C will not apply and accordingly, no proceedings can be initiated against the other person.

42. According to the petitioner, the date of handing over of the seized materials, i.e., 25.11.2022, is the date of initiation of search. If the said contention of the petitioner is accepted, obviously, the issuance of impugned notices dated 07.02.2023 by the 2nd respondent is without any authority and contrary to Sub-Section (3) of Section 153C of the Act and thus, the same is liable to be quashed.

43. In terms of Sub-Section (1) of Section 153C of the Act, for the purpose of calculating the six years period, the date of handing over of the materials to the petitioner's JAO has to be construed as the date of initiation of search for other person. Further, in terms of first proviso to Sub-Section (1) of Section 153C, for the purpose of abatement also, the date of handing over of the materials to the petitioner's JAO has to be construed as the date of initiation of search for the other person. In such view of the matter, this Court is unable to comprehend the submissions made by the learned counsel for respondents that yet another date is available for the purpose of initiation of search in respect of the other person.

44. Certainly, there cannot be two different dates for initiation of search for the other person. Hence, for all practical purpose, the initiation of search would be the same date and it is apparent upon reading the provisions of Section 153C of the Act. In the provision of Section 153C(1) of the Act, the date of initiation of search is mentioned as the date of handing over of materials and as per the first proviso, the same date would apply for the purpose of abatement also. When such being the case, no other date will come into picture for the purpose of determination of initiation of search for other person. At this juncture, it would be apposite to refer the judgement rendered by the Hon'ble Apex Court in **CIT Vs. Jasjit Singh** reported in **[2023] 458 ITR 437 (SC)**, wherein, it was held on the aspect as to whether the first proviso to Section 153C would apply only for the purpose of abatement of pending proceedings or otherwise.

45. When a similar contention was raised before the Hon'ble Supreme Court in the aforesaid case of **CIT Vs. Jasjit Singh**, the same was recorded in the said judgement as

*".....The revenue argued that the proviso to Section 153C(1), is confined in its application to the question of abatement"*.

However, while deciding the said issue, the Hon'ble Apex Court had arrived at a conclusion and rendered its judgement by stating that

*".....the revenue's argument is insubstantial and without merit".....*

When such being the case, it is clear that the Hon'ble Apex Court had rejected the contention of the revenue that *"the first proviso to Section 153C(1), is confined in its application to the question of abatement"*, which means, as per the law laid down by the Hon'ble Apex Court, the said provision is not only for the purpose of abatement but also for all the other practical purposes.

46. For ready reference, the relevant portion of the judgement rendered in the case of **CIT Vs. Jasjit Singh** is extracted hereunder:

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

*10. This Court is of the opinion that the revenue's argument is insubstantial and without merit. It is quite plausible that without the kind of interpretation which SSP Aviation adopted, the A.O. seized of the materials – of the search party, under Section 132 – would take his own time to forward the papers and materials belonging to the third party, to the concerned A.O. In that event if the date would virtually "relate back" as is*

*sought to be contended by the revenue, (to the date of the seizure), the prejudice caused to the third party, who would be drawn into proceedings as it were unwittingly (and in many cases have no concern with it at all), is dis-proportionate. For instance, if the papers are in fact assigned under Section 153-C after a period of four years, the third party assessee's prejudice is writ large as it would have to virtually preserve the records for at latest 10 years which is not the requirement in law. Such disastrous and harsh consequences cannot be attributed to Parliament. On the other hand, a plain reading of Section 153-C supports the interpretation which this Court adopts.*

*[\*\*Emphasis supplied]*

47. A reading of the above shows that the Hon'ble Apex Court had rejected the contention of the respondent and hence, it is clear that the first proviso to Sub-Section (1) of Section 153C is not only for the purpose of abatement but also for all other purposes, viz., initiation of search for other person in terms of Section 153C(3) of the Act. In such case, the date of initiation of search for the petitioner is the date, on which the documents were handed over to the JAO of the petitioner, i.e., 25.11.2022 is the date of initiation of search for the petitioner.

48. In terms of Sub-Section (3) of Section 153C, the provision of Section 153C will not apply for any search, which is initiated on or after 01.04.2021.

49. As stated above, in this case, the date of handing over of seized material to the petitioner's JAO is on 25.11.2022 and the said date is the date of initiation of search for the petitioner. Thus, in the present case, it is crystal clear like cloudless sky that the initiation of search was subsequent to 01.04.2021, for which, the provisions of Section 153C will not apply. Therefore, the impugned notices dated 07.02.2023 is unsustainable and the same were issued without authority and against the provisions of Sub-Section (3) of Section 153C of the Act.

50. In such view of the matter, all the impugned notices are liable to be quashed and accordingly, all the impugned notices dated 07.02.2023 issued by the 2nd respondent are quashed.

51. Since this Court has arrived at the above decision based on the jurisdiction of 2nd respondent in issuance of impugned notices, it is not necessary to deal with the other factual issues, which have been raised before this Court.

52. In the result, these writ petitions are allowed. No cost. Consequently, the connected miscellaneous petitions are also closed.