

- 1. Whether where there was no incriminating material belonging to assessee found during course of search proceedings under section 132, assessment u/s 153C were not valid - Held, yes** - The documents seized during the course of search and seizure proceedings from the RD Group have been referred as 'relating to' the assessee, in the satisfaction note recorded by the Assessing Officer while initiating the proceedings under section 153C against the assessee. Finding a reference in the satisfaction note recorded by the Assessing Officer for initiation of proceedings under section 153C against the assessee are certificate of incorporation, e-filing receipt, Form No. 18, Form No. 35. In view of the ratio laid down in the decisions of High Court in the cases of Pepsico India Holdings Pvt. Ltd. and Pepsi Foods Pvt. Ltd. the satisfaction of the Assessing Officer that the said documents 'belong to' the assessee is condition precedent to initiate proceedings under section 153C. In absence of such finding by the Assessing Officer, the notice issued under section 153C in the present case is held invalid. Besides there was no incriminating material found during the course of search and the assessment was not pending or abated to justify the assessment framed under section 132A, read with section 153C as well as section 143(3) against the assessee. The assessment in the question framed in furtherance to the said invalid notice and in absence of incriminating material is thus held as *void* and the same is quashed as such. The issue raised in objections of the Cross-objection is thus decided in favour of the assessee. These objections are thus allowed. **DCIT vs. Qualitron Commodities (P.) Ltd. [2015] 167 TTJ 553 (Delhi-Trib)**