

[2025] 181 taxmann.com 21 (Bombay)[17-11-2025]

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**INCOME TAX : Where assessment proceedings under section 153C were initiated against petitioner, a third party, on basis of search conducted in case of one ORL, since Assessing Officer of searched party as well as third party, i.e. petitioner, was one and same, there was no question of transfer of records seized under section 153C and, thus, time limit provided by first limb of clause (ii) of third proviso to section 153B(1) shall apply, which was 12 months from end of financial year in which search took place**

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[2025] 181 taxmann.com 21 (Bombay)

**HIGH COURT OF BOMBAY**

**Vijay Bihari Kandhari**

**v.**

**Assistant Commissioner of Income-tax\***

**B. P. COLABAWALLA AND AMIT S. JAMSANDEKAR, JJ.**

**WRIT PETITION NO. 2764 OF 2022**

**NOVEMBER 17, 2025**

**Section 153C, read with section 153B, of the Income-tax Act, 1961 - Search and seizure - Assessment of any other person (Time limit) - Assessment years 2014-15 to 2019-20 - A search and seizure operation under section 132 was carried out on 21-8-2019 in case of one ORL during which certain documents and information concerning petitioner, a third party, were seized - On basis of same, notices under section 153C were issued to petitioner for relevant assessment years -Whether fresh time given in second limb of clause (ii) of third proviso to section 153B(1) is applicable only if Assessing Officer of searched party transfers record from himself to Assessing Officer of third party, in case where both Assessing Officers are different; there is no provision of granting time for completion of assessment with reference to transfer of records from Investigation Wing to Assessing Officer - Held,yes - Whether since Assessing Officer of searched party as well as Assessing Officer of third party, i.e. petitioner, was one and same, time limit provided by first limb of clause (ii) of third proviso to section 153B(1) was to be applied, which was 12 months from end of financial year in which search took place - Held, yes - Whether since said time limit expired on 31-3-2021 and in light of TOLA and Notification No. S.O. 966(E) dated 27-2-2021, aforesaid time limit stood extended till 30-9-2021, thus, assessment under section 153C for relevant assessment years should have been completed by 30-9-2021 - Held, yes - Whether since Assessing Officer had not completed assessment by 30-9-2021 and was still seeking replies to show cause notices, assessment proceedings were time-barred as they were not completed by 30-9-2021 - Held, yes - Whether therefore, impugned proceedings under section 153C for relevant assessment years were to be quashed - Held, yes [Paras 15 and 19] [In favour of assessee]**

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## **FACTS**

- A search and seizure operation under section 132 was carried out on 21-8-2019 in the case of ORL. In the course of the aforementioned search, some incriminating documents and information concerning the petitioner were discovered and seized by the Income Tax Department. Because of the same, proceedings

under section 153C were initiated against the petitioner, resulting in the issuance of the impugned notices under section 153C for assessment years 2014-15 to 2019-20.

- The petitioner filed instant writ petition to quash said proceedings on ground that the time limit for completion of the assessment as per section 153B, read with the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA), expires on 30-9-2021. It was therefore submitted that the said assessments had not been completed under the said statutory time limit.

## **HELD**

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- As per section 153C, if during the course of search action on a particular assessee, the incriminating documents or material is found concerning a third party, the case of the third party can be reopened for six assessment years and "relevant assessment years" preceding the previous year in which the search is conducted. [Para 7]
- The time limit for completing such assessment is provided under section 153B. [Para 8]
- As the search and seizure on ORL and others was conducted after 1-4-2019 (i.e. 21-8-2019), the limitation provided under the third proviso to section 153B(1) shall be applicable for the completion of the assessment. [Para 9]
- As per clause (ii) of the third proviso, there are two limbs that provide the time limit for completion of the assessment under section 153C. The first limb of clause (ii) of the said proviso provides the time limit for completion of the assessment to be 12 months from the end of the financial year in which the last authorisation of search under section 132 is executed. As per this time limit, the assessment under section 153C should have been completed by 31-3-2021 in the present case, as the date of search under section 132 is 21-8-2019. The second limb of clause (ii) of the said proviso provides the time limit as 12 months from the end of the financial year in which the books of account or documents seized are handed over under section 153C to the Assessing Officer of a third party. As per revenue, the second limb to the above provision should be applicable in the present case as the investigation wing of the Income Tax Department has handed over the documents to the Assessing Officer of the third party on 21-8-2020. Therefore, according to revenue, the time limit should be counted from the date of handing over of documents by the Investigation Wing to the Assessing Officer of the third party, namely, the petitioner. [Para 10]
- Under section 153C, the handing over of documents takes place when the Assessing Officer of the searched party, after recording satisfaction that the documents found during the course of the search, belongs to a person other than the searched person, and thereafter transfers the records seized to the Assessing Officer of such other person. In the present case, there is no question of such transfer under section 153C. The Assessing Officer of the searched person and the third person (petitioner) is one and the same. [Para 11]
- The transfer of records under section 153C is done by the Assessing Officer of the searched party to the Assessing Officer of the third party. The mechanism is that the Investigation Wing, after conducting a search, transfers the seized records to the Assessing Officer of the searched party. While examining the record, the Assessing Officer of the searched party then determines whether certain documents and evidences belong to a person other than the searched party. Thereafter, he is required to record satisfaction in this regard and transfer the records to the Assessing Officer of the third party. In that situation, the second limb of clause (ii) of the third proviso to section 153B(1) comes into operation and a fresh time limit is permitted to the Assessing Officer of the third party to complete the assessment within 12 months from the end of the financial year in which the record found in the search is handed over to the Assessing Officer of the third party. In case the Assessing Officer of the searched party and the Assessing Officer of the third party is one and the same, the question of transfer of records to oneself does not arise. In that situation, the second limb of the clause (ii) of the third proviso to section 153B(1) time limit cannot be made applicable. [Para 12]
- The revenue's contention that transfer of records from the officer of the Investigation Wing to the common Assessing Officer of the searched party as well as the third party, should trigger the application of the second limb of clause (ii) of the third proviso, cannot be accepted as there is no reference of such transfer in the third proviso to section 153B(1). The fresh time given in the second limb is applicable only if the

Assessing Officer of the searched party transfers the record from himself to the Assessing Officer of the third party, in case where both the Assessing Officers are different. There is no provision of granting time for completion of the assessment with reference to the transfer of records from the Investigation Wing to the Assessing Officer. In such a case, the cumulative time taken by all the wings of the Income Tax Department, including the Investigation Wing, is covered in the first limb of the proviso, which provides the time limit for completion of assessment as 12 months from the end of the financial year in which the search took place. [Para 13]

- If the above contention raised by revenue is accepted, the first limb of clause (ii) of the third proviso providing time of 12 months from the end of the financial year in which the search took place, shall become completely redundant and otiose. In every case, there will be a time gap between the conduct of search and transfer of the seized record to the Assessing Officer of the searched party by the Investigation Wing. If the department's contention is accepted, then the time provided by the first limb of the said proviso can never be applied, and the second limb will always be applicable. This would make the first limb completely otiose. Such an interpretation can never be permitted. [Para 14]
- In the facts of the present case, the search and seizure action at ORL took place on 21-8-2019. The Assessing Officer of the searched party, as well as the third party, *i.e.* the petitioner, is one and the same. Therefore, the time limit provided by the first limb of clause (ii) of the third proviso to section 153B(1) shall apply, which is 12 months from the end of the financial year in which the search took place. The said time limit expired on 31-3-2021. In light of TOLA and Notification No. S.O. 966(E) dated 27-2-2021, the aforesaid time limit stood extended till 30-9-2021. Therefore, the assessment under section 153C should have been completed for assessment years 2014-15 to 2019-20 by 30-9-2021. As the Assessing Officer has not completed the assessment by 30-9-2021 and is still seeking replies to the show cause notices issued on 11-3-2022 and 16-3-2022, assessment proceedings are time-barred as they are not completed by 30-9-2021. [Para 15]
- The revenue placed reliance on the judgment of the Madras High Court in the case of LKS Gold House (P.) Ltd. v. Dy. CIT [2024] 161 taxmann.com 604 (Madras) to support his argument that the present assessment proceedings are not time-barred. In this regard, the revenue placed reliance on paragraph No.103 of the said judgment. Paragraph No.103 of the said decision states that even if the Assessing Officer of the searched person and the Assessing Officer of other person (3rd person) are one and the same, the date of the satisfaction note is to be the deemed date of handing over of the books of account or documents or assets seized or requisitioned for the purpose of computation of limitation. The judgment further states that twelve months from the end of the financial year, from the date on which the documents were handed over or deemed to have been handed over to the Assessing Officer of the other person, would start running for computation of limitation. [Para 16]
- Firstly, the aforesaid judgment will not be applicable because in the facts of the present case, the satisfaction note is undated. This is admitted by the revenue. Even otherwise, the Single Judge of the Madras High Court was not correct in holding that the date of the satisfaction note is to be the deemed date for handing over the books of account or documents or assets seized or requisitioned for the purpose of computation of limitation. There is no such stipulation in clause (ii) of the third proviso to section 153B(1)(b). [Para 17]
- The decision of the Supreme Court in the case of Super Malls Pvt. Ltd. v. PCIT [2020] 116 taxmann.com 1 (SC) has not been distinguished and read in the correct perspective. As mentioned earlier, as held by the Supreme Court in Super Malls Pvt. Ltd. (supra), the second requirement of transmitting the documents so seized from the searched person would not arise if the Assessing Officer of the searched person and the third person is one and the same. There is no question of transmitting such seized documents to oneself. For all these reasons, the Madras High Court's decision cannot be applied to the facts of the present case. [Para 18]
- In view of the foregoing discussion, it is held that the proceedings under section 153C for assessment years 2014-15 to 2019-20 are time-barred. Hence, they are hereby quashed. [Para 19]

## **CASE REVIEW**

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*Super Malls (P.) Ltd. v. Pr. CIT* [2020] 115 taxmann.com 105/273 Taxman 556/ 423 ITR 281 (SC) (para 18) Followed.

*LKS Gold House (P.) Ltd. v. Dy. CIT* [2024] 161 taxmann.com 604 (Mad) (para 18) Distinguished.

## **CASES REFERRED TO**

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*Super Malls (P.) Ltd. v. Pr. CIT* [2020] 115 taxmann.com 105/273 Taxman 556/ 423 ITR 281 (SC) (para 4) and *LKS Gold House (P.) Ltd. v. Dy. CIT* [2024] 161 taxmann.com 604 (Mad) (para 16).

**Naresh Jain, Mahaveer Jain, Shobhit Mishra and Nishil Jain for the Petitioner. Akhileshwar Sharma and P.A. Narayanan for the Respondent.**

## **ORDER**

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1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable forthwith and heard finally.

2. The above Writ Petition is filed seeking to quash the impugned notices for A.Y. 2014-15 to A.Y. 2019-20 issued by Respondent No. 2 under Section 153C of the Income Tax Act, 1961 (for short "the IT Act"), dated 10.12.2020. The challenge is primarily on the ground that the proceedings under Section 153C have become time-barred on 30.09.2021. The proceedings under Section 153C and issuance of the impugned notices are being continued even after the proceedings getting time-barred. As a consequence, the petitioner also challenges notices under Section 143(2) and show cause notices issued by Respondent No.2 for completion of the assessment.

3. Number of contentions have been raised in the petition. Mr. Jain, the learned Counsel for the Petitioner, however, submits that if the proceedings under Section 153C are held as time-barred, the other contentions would be merely academic and need not be gone into.

4. Mr. Jain, the learned Advocate of Petitioner, submits that a search and seizure operation under Section 132 of the IT Act was carried out on 21.08.2019 in the case of Oberoi Realty Limited & others. In the course of the aforementioned search, it is alleged by Respondent No. 2 that some incriminating documents and information concerning the petitioner were discovered and seized by the Income Tax Department. Because of the same, proceedings under Section 153C were initiated against the petitioner, resulting in the issuance of the impugned notices under Section 153C for A.Y. 2014-15 to 2019-20. Mr. Jain further submits that the time limit for completion of the assessment as per Section 153B of the IT Act, read with the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short "TOLA"), expires on 30.09.2021. It is therefore submitted that the said assessments have not been completed under the said statutory time limit. Mr. Jain brings to our notice 'Exhibit C' (page Nos. 45-51 of the Writ Petition) to demonstrate that Respondent No.2 has continued to issue Show Cause Notices dated 11.03.2022 and 16.03.2022, which are beyond the statutory period for completion of the assessment. It is also brought to our notice that the Assessing Officer of the searched party, i.e. Oberoi Realty Limited, as well as the Assessing Officer of the other party/ third party, i.e. Petitioner, is one and the same. The jurisdiction of both the assessee lies with Central Circle 4(1), Mumbai. It was argued that in such a case, the time limit for completion of the assessment as per the relevant proviso of Section 153B(1) expires on 30.09.2021. Mr. Jain relies on the judgment of the Hon'ble Supreme Court in *Super Malls (P.) Ltd. v. Pr. CIT* [2020] 115 taxmann.com 105/273 Taxman 556/ 423 ITR 281 (SC)/Civil Appeal No. 2006 of 2020 in this regard. Mr. Jain also categorically states that the assessment under Section 153C was not completed by 30.09.2021.

5. On the other hand, Mr. Sharma, the learned Counsel appearing for the Revenue, strongly opposes the said contention of the Petitioner and contends that the limitation for the completion of the assessment under Section 153C would expire on 31.03.2022. He stated that the assessment order has not been passed till date because of the ad-interim relief granted by this Court on 28.03.2022. He contends that the seized documents concerning the Petitioner were "handed over" to the Assessing Officer of the searched party (Oberoi Realty) and the Assessing Officer of the Petitioner (the other party/Third Party), who happens to be the same officer, on 21.08.2020. Mr. Sharma relies on the counter Affidavit to say that the Assessing Officer of the Petitioner (who incidentally happens to be the Assessing Officer of the searched person also) received the documents seized in the search and seizure proceedings at Oberoi Realty Limited & others on 21.08.2020. Mr. Sharma brings to our notice Exhibit 1 of the counter affidavit, showing that the records are transferred by the Investigation Wing of the Income Tax Department on 21.08.2020 to the Assessing Officer of the searched

party. According to Mr. Sharma, there are 2 limbs of the time limit provided by the third proviso to Section 153B(1), which is applicable for the present assessment under Section 153C. The first limb of clause (ii) of the said proviso provides a time limit for completion of the assessment under Section 153C within 12 months from the end of the financial year in which the search was conducted. However, the second limb of the same clause provides a further time limit of 12 months from the end of the Financial Year in which the records found in the search relating to a third party are transferred under Section 153C to the jurisdictional Assessing Officer of the third party. According to Mr. Sharma, the second limb of the time limit provided by the clause (ii) of the third proviso to Section 153B(1) should be applicable in the present case, as the Investigation Wing of the Income Tax Department has transferred the seized records concerning the petitioner on 21.08.2020, though the search was conducted on 21.08.2019. In such a scenario, Mr. Sharma contends that the time to complete the assessment proceedings was till 31.03.2022.

6. We have heard the parties. Section 153C of the IT Act reads as under:-

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

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

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

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

7. As per Section 153C, if during the course of search action on a particular assessee, the incriminating documents or material is found concerning a third party, the case of the third party can be reopened for six assessment years and "relevant assessment years" preceding the previous year in which the search is conducted.

8. The time limit for completing such assessment is provided under Section 153B of the IT Act. The relevant extract of the section is reproduced below:-

"153B. (1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment—

(a) in respect of each assessment year falling within six assessment years 68[and for the relevant assessment year or years] referred to in clause (b) of sub-section (1) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

**Provided** that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

**Provided further** that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2018,—

(i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted;

(ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

**Provided also** that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on or after the 1st day of April, 2019,—

(i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

(ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later."

(emphasis supplied)

9. As the search and seizure on Oberoi Realty Limited and Ors. was conducted after 01.04.2019 (i.e. 21.08.2019), the limitation provided under the third proviso to Section 153B(1) shall be applicable for the completion of the assessment.

10. As per clause (ii) of the third proviso, there are two limbs that provide the time limit for completion of the assessment under Section 153C. The first limb of clause (ii) of the said proviso provides the time limit for completion of the assessment to be 12 months from the end of the Financial Year in which the last authorisation of search under Section 132 is executed. As per this time limit, the assessment under Section 153C should have been completed by 31.03.2021 in the present case, as the date of search under Section 132 is 21.08.2019. The second limb of clause (ii) of the said proviso provides the time limit as 12 months from the end of the Financial Year in which the Books of Account or documents seized are handed over under Section 153C to the Assessing Officer of a third party. As per Mr. Sharma, the second limb to the above provision should be applicable in the present case as the investigation wing of the Income Tax Department has handed over the documents to the Assessing Officer of the third party on 21.08.2020. Therefore, according to Mr. Sharma, the time limit should be counted from the date of handing over of documents by the Investigation Wing to the Assessing Officer of the third party, namely, the Petitioner.

11. Under Section 153C, the handing over of documents takes place when the Assessing Officer of the searched party, after recording satisfaction that the documents found during the course of the search, belongs to a person other than the searched person, and thereafter transfers the records seized to the Assessing Officer of such other person. In the present case, there is no question of such transfer under Section 153C. The Assessing Officer of the searched person and the third person (Petitioner) is one and the same. In this regard, a useful reference can be made to the Hon'ble Supreme Court's judgment in the case of *Super Malls (P.) Ltd* (*supra*), where the interpretation of Section 153C and transfer of records are duly considered. The relevant portion of this decision is reproduced hereunder :-

"6. This Court had an occasion to consider the scheme of Section 153C of the Act and the conditions precedent to be fulfilled/complied with before issuing notice under Section 153C of the Act in the case of *Calcutta Knitwears* (*supra*) as well as by the Delhi High Court in the case of *Pepsi Food Pvt. Ltd.* (*supra*).

As held, before issuing notice under Section 153C of the Act, the Assessing Officer of the searched person must be "satisfied" that, *inter alia*, any document seized or requisitioned "belongs to" a person other than the searched person.

That thereafter, after recording such satisfaction by the Assessing Officer of the searched person, he may transmit the records/documents/things/papers etc. to the Assessing Officer having jurisdiction over such other person. After receipt of the aforesaid satisfaction and upon examination of such other documents relating to such other person, the jurisdictional Assessing Officer may proceed to issue a notice for the purpose of completion of the assessment under Section 158BD of the Act and the other provisions of Chapter XIV-B shall apply.

6.1 It cannot be disputed that the aforesaid requirements are held to be mandatorily complied with. There can be two eventualities. It may so happen that the Assessing Officer of the searched person is different from the Assessing Officer of the other person and in the second eventuality, the Assessing Officer of the searched person and the other person is the same. Where the Assessing Officer of the searched person is different from the Assessing Officer of the other person, there shall be a satisfaction note by the Assessing Officer of the searched person and as observed hereinabove that thereafter the Assessing Officer of the searched person is required to transmit the documents so seized to the Assessing Officer of the other person. The Assessing Officer of the searched person simultaneously while transmitting the documents shall forward his satisfaction note to the Assessing Officer of the other person and is also required to make a note in the file of a searched person that he has done so. However, as rightly observed and held by the Delhi High Court in the case of Ganpati Fincap (*supra*), the same is for the administrative convenience and the failure by the Assessing Officer of the searched person, after preparing and dispatching the satisfaction note and the documents to the Assessing Officer of the other person, to make a note in the file of a searched person, will not vitiate the entire proceedings under Section 153C of the Act against the other person. At the same time, the satisfaction note by the Assessing Officer of the searched person that the documents etc. so seized during the search and seizure from the searched person belonged to the other person and transmitting such material to the Assessing Officer of the other person is mandatory. However, in the case where the Assessing Officer of the searched person and the other person is the same, it is sufficient by the Assessing Officer to note in the satisfaction note that the documents seized from the searched person belonged to the other person. Once the note says so, then the requirement of Section 153C of the Act is fulfilled. In case, where the Assessing Officer of the searched person and the other person is the same, there can be one satisfaction note prepared by the Assessing Officer, as he himself is the Assessing Officer of the searched person and also the Assessing Officer of the other person. However, as observed hereinabove, he must be conscious and satisfied that the documents seized/recovered from the searched person belonged to the other person. In such a situation, the satisfaction note would be qua the other person. The second requirement of transmitting the documents so seized from the searched person would not be there as he himself will be the Assessing Officer of the searched person and the other person and therefore there is no question of transmitting such seized documents to himself. "

(Emphasis supplied)

12. The transfer of records under Section 153C is done by the Assessing Officer of the searched party to the Assessing Officer of the third party. The mechanism is that the Investigation Wing, after conducting a search, transfers the seized records to the Assessing Officer of the searched party. While examining the record, the Assessing Officer of the searched party then determines whether certain documents and evidences belong to a person other than the searched party. Thereafter, he is required to record satisfaction in this regard and transfer the records to the Assessing Officer of the third party. In that situation, the second limb of clause (ii) of the third proviso to Section 153B(1) comes into operation and a fresh time limit is permitted to the Assessing Officer of the third party to complete the assessment within 12 months from the end of the Financial Year in which the record found in the search is handed over to the Assessing Officer of the third party. In case the assessing officer of the searched party and the Assessing Officer of the third party is one and the same, the question of transfer of records to oneself does not arise. The Hon'ble Supreme Court in case of *Super Malls (P.) Ltd (supra)* has categorically stated and clarified the same. In that situation, the second limb of the clause(ii) of the third proviso to 153B(1) time limit cannot be made applicable.

13. Mr. Sharma's contention that transfer of records from the officer of the Investigation Wing to the common Assessing Officer of the searched party as well as the third party, should trigger the application of the second limb of clause (ii) of the third proviso, cannot be accepted as there is no reference of such transfer in the third

proviso to Section 153B(1). The fresh time given in the second limb is applicable only if the Assessing Officer of the searched party transfers the record from himself to the assessing officer of the third party, in case where both the Assessing Officers are different. There is no provision of granting time for completion of the assessment with reference to the transfer of records from the Investigation Wing to the Assessing Officer. In such a case, the cumulative time taken by all the wings of the Income Tax Department, including the Investigation Wing, is covered in the first limb of the proviso, which provides the time limit for completion of assessment as 12 months from the end of the Financial Year in which the search took place.

14. If the above contention raised by Revenue is accepted, the first limb of clause (ii) of the third proviso providing time of 12 months from the end of the Financial Year in which the search took place, shall become completely redundant and otiose. In every case, there will be a time gap between the conduct of search and transfer of the seized record to the Assessing Officer of the searched party by the Investigation Wing. If the department's contention is accepted, then the time provided by the first limb of the said proviso can never be applied, and the second limb will always be applicable. This would make the first limb completely otiose. Such an interpretation can never be permitted.

15. In the facts of the present case, the search and seizure action at Oberoi Reality took place on 21.08.2019. The Assessing Officer of the searched party, as well as the third party, i.e. the Petitioner, is one and the same. Therefore, the time limit provided by the first limb of clause (ii) of the third proviso to Section 153B(1) shall apply, which is 12 months from the end of the Financial Year in which the search took place. The said time limit expired on 31.03.2021. In light of TOLA and Notification No. S.O. 966(E) dated 27.02.2021, the aforesaid time limit stood extended till 30.09.2021. Therefore, the assessment under Section 153C should have been completed for A.Y. 2014-15 to 2019-20 by 30.09.2021. As the Assessing Officer has not completed the assessment by 30.09.2021 and is still seeking replies to the show cause notices issued on 11.03.2022 and 16.03.2022, assessment proceedings are time-barred as they are not completed by 30.09.2021.

16. We must mention that Mr. Sharma, the learned Advocate appearing for the Revenue, placed reliance on the judgment of the Madras High Court in the case of *LKS Gold House (P.) Ltd. v. Dy. CIT* [2024] 161 taxmann.com 604 (Mad) to support his argument that the present assessment proceedings are not time-barred. In this regard, Mr. Sharma placed reliance on paragraph No.103 of the said judgment. Paragraph No.103 of the said decision states that even if the Assessing Officer of the searched person and the Assessing Officer of other person (3rd person) are one and the same, the date of the satisfaction note is to be the deemed date of handing over of the books of account or documents or assets seized or requisitioned for the purpose of computation of limitation. The judgment further states that twelve months from the end of the Financial Year, from the date on which the documents were handed over or deemed to have been handed over to the Assessing Officer of the other person, would start running for computation of limitation.

17. Firstly, the aforesaid judgment will not be applicable because in the facts of the present case, the satisfaction note is undated. This is admitted by Mr. Sharma. Even otherwise, we are unable to agree with the learned Single Judge of the Madras High Court that the date of the satisfaction note is to be the deemed date for handing over the books of account or documents or assets seized or requisitioned for the purpose of computation of limitation. We find no such stipulation in clause (ii) of the third proviso to Section 153B(1)(b).

18. We also find, with the greatest respect to the learned Single Judge of the Madras High Court, that the decision of the Hon'ble Supreme Court in the case of *Super Malls (P.) Ltd. (supra)* has not been distinguished and read in the correct perspective. As mentioned earlier, as held by the Hon'ble Supreme Court in *Super Malls (P.) Ltd (supra)*, the second requirement of transmitting the documents so seized from the searched person would not arise if the Assessing Officer of the searched person and the third person is one and the same. There is no question of transmitting such seized documents to oneself. For all these reasons, we find that the Madras High Court's decision cannot be applied to the facts of the present case.

19. In view of the foregoing discussion, we hold that the proceedings under Section 153C for A.Y. 2014-15 to 2019-20 are time-barred. Hence, they are hereby quashed, and the Petition is allowed in terms of the prayer clause (a) as below:-

"(a) that this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned notice dated 10th December, 2020 issued by Respondent No. 1 u/s 153C of the Act for the Assessment Year 2014-15 to 2019-20 (being EXHIBIT "A-Colly" hereto) and after examining the validity and legality thereof to quash and set aside the same."



**20.** Rule is made absolute in the aforesaid terms. However, there shall be no order as to costs.

**21.** This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

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\*In favour of assessee.