Pr. Commissioner of Income Tax (Central)-2 v. M/s. S.G. Portfolio Pvt. Ltd.

ITA 107/2023 (CM APPL. 8189/2023)

2023:DHC:2327-DB; ITA 107/2023 | 2023-02-20

Reassessment after annulled section 153C assessment: repeated material, mechanical sanction and omitted section 143(2) notice leave annulment intact.

Income-tax Act, 1961: 143(2), 144, 147, 148, 153C

High Court of Delhi | Division Bench | Rajiv Shakdher, J. | Tara Vitasta Ganju, J.

Assessment years: 2009-10

01 FACTS OF THE CASE

For AY 2009-10, the assessee returned Rs.5,073 on 26 October 2009. Following the Aseem Kumar Gupta group search/survey, the 26 December 2011 section 143(3)/153C assessment fixed income at Rs.7,35,60,220 with protective additions. CIT(A) quashed it on 1 February 2013 for lack of incriminating material. A section 148 notice followed on 16 May 2013. Despite a 6 September 2013 letter adopting the original return, the AO proceeded as if none existed and assessed Rs.10,98,39,924 on 2 March 2015 under sections 147/144.

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02 DISCUSSION BY THE HON'BLE COURT

CIT(A) again annulled the assessment and ITAT affirmed on 22 March 2021. Revenue accepted that no fresh material existed but argued sections 153C and 147/148 differed. The Court recorded repeated additions, absence of fresh material and mechanical sanction. It particularly held that the return response was on record: the AO had to issue section 143(2) notice rather than proceed under section 144 on a mistaken no-return premise.

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03 JUDICIAL DECISION

The Tribunal's order required no interference. No substantial question of law arose and Revenue's appeal was dismissed.

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04 OUTCOME / IN WHOSE FAVOUR

The second assessment remained quashed. The High Court did not adjudicate the substantive genuineness of each deposit or share-capital item, order a fresh assessment, or create a blanket bar on every reassessment following an unsuccessful section 153C proceeding.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

The return-adoption letter defeats the no-return premise — The Court identified the 6 September 2013 letter as material showing adoption of the original return in response to section 148. That concrete record made omission of section 143(2) material and recourse to section 144 on the stated premise untenable. In a comparable case, the letter, its filing evidence and assessment record matter more than a general assertion that a return existed.

Switching provisions did not answer the defects in this record — Revenue relied on differences between search assessment and reassessment, while conceding no fresh material. The Court also identified mechanical sanction and substantially repeated additions. Its reasoning examines this combination of defects; it does not say that annulment under section 153C alone extinguishes every possible later reassessment route.

The procedural discussion is not a fresh assessment direction — Paragraph 26 explains that notice should have preceded further action and says an assessment under sections 147/144 might thereafter have been possible. The actual disposition is dismissal of Revenue's appeal, not remand or permission to start again. Preserve that distinction and avoid treating jurisdictional annulment as a finding that every underlying credit was substantively explained.

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SOURCE & VERIFICATION

High Court of Delhi source judgment/order

Complete 6-page source PDF; corrected note based on this document.

All 6 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All six original pages read and visually inspected; first and second assessment amounts and procedural stages kept distinct.

STATUTORY SCOPE

Source-era statutory provisions only; no Income-tax Act, 2025 equivalence asserted.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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