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Reserved on : 01.04.2026
Pronounced on : 24.04.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL No. 382 OF 2026 (T-IT)

BETWEEN:

1. THE DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE-1(4),
No.1, C.R. BUILDING,
QUEENS ROAD, BENGALURU-560 001.

2. THE PR. COMMISSIONER OF INCOME TAX,
CENTRAL RANGE-1,
C.R. BUILDING, QUEEN'S ROAD,
BENGALURU-560 001.

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL A/W
SRI M. DILIP, STANDING COUNSEL)

AND:

1. SRI C. R. RAM MOHAN RAJU,
S/O. CHANGAMARAJU,
AGED ABOUT 52 YEARS,
RESIDING AT 24, 4TH CROSS,
K.R. LAYOUT, J.P. NAGAR,
6TH PHASE, BENGALURU-560 078.

...RESPONDENT

(BY SRI A. SHANKAR, SENIOR ADVOCATE A/W
SRI CHANDRASEKHAR V., ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 33057/2024 (T-IT) DATED 27.10.2025

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, ***K.V. ARAVIND J.,*** DELIVERED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri Y.V. Raviraj, learned Senior Standing Counsel, along with Sri M. Dilip, learned Standing counsel for the appellants-Revenue and Sri A Shankar, learned Senior Counsel for Sri V. Chandrashekar, learned counsel for the respondent-Assessee.

This intra-court appeal is filed by the Revenue, calling in question the order dated 27.10.2025 passed by the learned Single Judge in W.P.No.33057 of 2024. The present appeal is preferred under Section 4 of the Karnataka High Court Act, 1961.

FACTUAL MATRIX

2. The brief facts are that a search under Section 132 of the Income Tax Act, 1961 (for short "Act") was conducted on 14.09.2017 in the case of Sri K. Narayan Raju. Pursuant to the satisfaction recorded under Section 132 of the Act by the competent authority, having reason to suspect that books of account, documents, and other valuable articles or things belonging to Sri K. Narayan Raju were kept or secreted in the premises of the respondent, the residential premises of the respondent came to be searched.

2.1 Thereafter, the Assessing Officer of Sri K. Narayan Raju initiated proceedings under Section 153A of the Act. In the course of such proceedings, the Assessing Officer recorded satisfaction that the seized documents, books of account, and other materials belonged to the respondent and accordingly handed over the said material to the Assessing Officer of the respondent.

2.2 Upon due compliance with the requirements under Section 153C of the Act, the Assessing Officer of the respondent issued notice under Section 153C of the Act for the assessment years 2011–12 to 2018–19.

2.3 The notice issued under Section 153C of the Act was challenged in the writ petition on the ground that, since the premises of the respondent had been searched, the respondent ought to have been treated as a 'searched person' and proceedings should have been initiated under Section 153A of the Act instead of Section 153C of the Act.

2.4 The learned Single Judge, upon examining the satisfaction recorded under Section 153C of the Act, held that the panchanama discloses the name of Sri K. Narayan Raju as the person in whose name the warrant was issued. However, the respondent is shown as the owner of the residential premises which was subjected to search, as reflected in the panchanama. On that basis, the learned Single Judge concluded that the respondent is to be treated as a 'searched person' and not as an 'other person' within the meaning, scope, and ambit of Section 153C of the Act.

2.5 The learned Single Judge, placing reliance on the judgment of the Division Bench of this Court in the case of ***Sunil Kumar Sharma v. ACIT, (2024) 159 taxmann.com 179***, held that since the premises of the respondent had been searched and documents were seized therefrom, the

respondent would fall within the category of 'searched person' and not the 'other person'. Consequently, it was held that the initiation of proceedings under Section 153C of the Act is not sustainable.

2.6 Accordingly, the notices issued under Section 153C of the Act for the assessment years 2011–12 to 2018–19 were set aside.

SUBMISSIONS ON BEHALF OF THE REVENUE/APPELLANT

3. Sri Y.V. Raviraj, learned Senior Standing Counsel appearing for the appellant–Revenue, submits that the search warrant under Section 132 of the Act was issued in the name of Sri K. Narayan Raju. It is further submitted that the requisite satisfaction, as contemplated under Section 132 of the Act, was duly recorded by the competent authority.

3.1 Learned counsel contends that the provisions of Section 132 mandate the recording of satisfaction in respect of a person, as well as the place to be searched, where the competent authority has reason to suspect that books of account, documents, money, bullion, jewellery, or other valuable articles or things are kept. It is submitted that, in the present case, the satisfaction was recorded in respect of Sri K.

Narayan Raju, while the place for search was the premises of the respondent.

3.2 It is further submitted that a search under Section 132 of the Act is essentially person-specific and not premise-specific. Once satisfaction is recorded in respect of a person, as required under clauses (a), (b), and (c) of Section 132(1), the premises to be searched may fall within the ambit of clauses (i) to (v) thereof.

3.3 Learned counsel further submits that Rule 112(2A) & 112(3) of the Income Tax Rules, 1962 (for short "the Rules") mandates the recording of satisfaction, specifying the person to be searched and, in that context, the place or premises to be searched. It is contended that once satisfaction is recorded under Section 132 of the Act in respect of a person, the premises to be searched may be any place where the competent authority has reason to suspect that the specified items are kept, and such premises need not necessarily belong to the said person.

3.4 It is further submitted that, in the absence of satisfaction recorded in respect of a person, mere search of the premises belonging to such person would not render him as 'searched

person' within the meaning of the Act. Learned counsel submits that the warrant of authorization and the panchanama clearly disclose the name of the person against whom the warrant is issued, as well as the premises to be searched.

3.5 It is also contended that Section 153A of the Act is attracted only where a search is initiated in the case of a person under Section 132 of the Act. In the present case, it is Sri K. Narayan Raju who is the person searched under Section 132 of the Act. In support of the said submission, learned counsel has sought to rely on the satisfaction recorded under Section 132 of the Act, the warrant of authorization, and the panchanama.

3.6 Learned counsel further submits that the reference to the residential premises of the respondent is only for the purpose of identifying the place where the warrant of search is to be executed, and not to treat the respondent as the person searched.

3.7 In support of his contentions, learned counsel places reliance on the judgment of the Division Bench of this Court in ***PCIT v. Associated Mining Company [(2019) 108 taxmann.com 564 (Karnataka)]***, as well as the judgment of

the High Court of Delhi in ***MDLR Resorts Pvt. Ltd. v. CIT [(2013) 40 taxmann.com 365]***. Reliance is also placed on the judgment of the Hon'ble Supreme Court in ***Pooran Mal v. Director of Inspection [(1974) 93 ITR 505 (SC)]***.

3.8 Learned counsel submits that the Division Bench of this Court in ***DCIT v. Sunil Kumar Sharma [(2024) 159 taxmann.com 179]*** has not taken into consideration the earlier judgment of this Court in ***PCIT v. Associated Mining Company*** *(supra)*. It is further contended that the Coordinate Bench in ***Sunil Kumar Sharma*** *(supra)* has not examined the scheme of Section 132 of the Act, the satisfaction recorded thereunder, or the warrant of authorization for search.

3.9 It is submitted that the observations made in ***Sunil Kumar Sharma*** *(supra)* are in the nature of obiter dicta, rendered without considering the binding precedent of the Coordinate Bench in ***Associated Mining Company*** *(supra)* and the judgment of the High Court of Delhi in ***MDLR Resorts Pvt. Ltd.*** *(supra)*.

3.10 Learned counsel further places reliance on the judgment of the Rajasthan High Court in ***CIT v. Smt. Umlesh Goyal [(2016) 74 taxmann.com 37 (Rajasthan)]***, as well as the

judgment of the High Court of Gujarat in ***Prabhubhai Vastabhai Patel v. R.P. Meena [(2011) 112 Taxman 277]***, to contend that a search under Section 132 of the Act is person-specific and not premise-specific.

SUBMISSIONS ON BEHALF OF THE LEARNED SENIOR COUNSEL FOR THE RESPONDENT/ASSESSEE

4. Sri A. Shankar, learned Senior Advocate appearing for the respondent, submits that pursuant to the search conducted in the residential premises of the respondent, the authorities have seized documents belonging to the respondent and have also recorded his statement. It is contended that, based on the documents and other materials so seized, as well as the statement recorded, notice under Section 153C of the Act has been issued. It is therefore submitted that, for the purposes of Sections 132 and 153A of the Act, the respondent is to be treated as the 'searched person'.

4.1 Learned counsel further submits that, but for the warrant of authorization issued for searching the premises of the respondent, the very search would be rendered illegal. It is contended that since the premises searched belongs to the respondent and the seizure pertains to books of account and

other documents of the respondent, proceedings ought to have been initiated under Section 153A of the Act by treating the respondent as the searched person.

4.2 It is further submitted that the person searched is to be determined with reference to the premises subjected to search. In this regard, it is contended that the warrant of authorization and the panchanama record the place of search as the residential premises of the respondent and, therefore, in the context of Section 132 of the Act, the respondent must be regarded as the searched person. It is also submitted that the warrant of authorization was shown to the respondent and that he has signed the same, thereby evidencing that he is the person searched.

4.3 Learned counsel further submits that, upon execution of a search warrant, certain duties are cast upon the person searched, including cooperation with the search proceedings and signing of the documents. It is contended that such duties have been discharged by the respondent, thereby reinforcing the position that the respondent is the searched person.

4.4 It is also submitted that Section 153A of the Act is attracted where a search is initiated, and the provision must be

construed with reference to the premises subjected to search. Any other interpretation, according to the learned counsel, would amount to rewriting the statutory provision, which is impermissible.

4.5 Learned counsel further submits that a statement under Section 132(4) of the Act has been recorded from the respondent, and such a statement can be recorded only from the searched person. On that basis as well, it is contended that the respondent is the searched person.

4.6 Referring to the satisfaction note recorded under Section 153C of the Act, learned counsel submits that it itself indicates that the respondent was subjected to search, and therefore, the proceedings ought to have been initiated under Section 153A of the Act. It is also contended that the panchanama has been drawn with reference to the search conducted in the residential premises of the respondent, thereby indicating that the respondent is the searched person.

4.7 Learned Senior Advocate further submits that prohibitory orders were issued in the case of the respondent and that all permissible actions under Section 132 of the Act were carried out in respect of the respondent. It is therefore contended that,

for the purposes of Section 153A of the Act, the respondent is to be treated as the 'searched person'.

4.8 It is further submitted that the procedure relating to search is governed by the provisions analogous to those under the Code of Criminal Procedure,1973 and the warrant issued for searching the premises of the respondent would determine the respondent as the person searched.

4.9 Learned Senior Advocate, with reference to the second proviso to Section 153C of the Act, submits that in the case of proceedings under Section 153A, any pending proceedings abate as on the date of search, and the period of six assessment years is to be reckoned from the date of search. In contrast, under Section 153C of the Act, the abatement is deferred to the date on which the books of account or documents are handed over to the Assessing Officer, and the period of six assessment years is to be reckoned from the date of such handing over.

4.10 It is submitted that the interpretation sought to be placed by the Revenue on Section 153A of the Act would lead to absurdity and would not be in favour of the Revenue. It is further contended that such an interpretation would amount to

rewriting the statutory provisions, which is impermissible in law.

4.11 Learned Senior Advocate further submits that the very contentions now urged by the Revenue have already been considered and answered in the case of ***Sunil Kumar Sharma v. DCIT [(2023) 146 taxmann.com 553 (Karnataka)]***, decided by the learned Single Judge, which has been affirmed by the Division Bench of this Court in ***[(2024) 159 taxmann.com 179]***. It is also submitted that the Special Leave Petition preferred by the Revenue has been dismissed ***[(2024) 168 taxmann.com 77]***, and the review petition filed thereafter has also been rejected by the Hon'ble Supreme Court.

4.12 It is therefore contended that all the issues and contentions urged in the present appeal stand concluded by the aforesaid judgments and does not warrant interference.

4.13 Learned counsel further submits, by referring to the panchanama and other material on record, that substantial seizure has been effected from the residential premises of the respondent, and that the said seized documents form the very basis for initiating proceedings under Section 153C of the Act.

It is contended that, in view of the search conducted in the residential premises of the respondent and the seizure of documents therefrom, the appropriate proceedings ought to have been initiated under Section 153A of the Act.

4.14 In support of the above submissions, learned counsel has placed reliance on two compilations of judgments, which are as follows:

(i) DCIT vs. Sunil Kumar Sharma (2024) 168 taxmann.com 77 (SC)

(ii) DCIT vs. Sunil Kumar Sharma (2024) 159 taxmann.com 179 (Karnataka)

(iii) Sunil Kumar Sharma vs. DCIT (2022) 448 ITR 485 (Karnataka)

(iv) CIT vs. St. Ann's Education Society, ITA No. 1254/2006 dated 28.09.2011 (Karnataka)

(v) CIT vs. St. Ann's Education Society, ITA No. 1253/2006 dated 28.09.2011 (Karnataka)

(vi) St. Ann's Education Society vs. DCIT (Exemption) ITA No. 165/Bang/2002 and connected matters (Bangalore-Tribunal) dated 04.04.2006

(vii) C. Ramaiah Reddy vs. ACIT (2011) 339 ITR 210 (Karnataka)

(viii) CIT vs. IBC Knowledge Park (P.) Ltd., (2016) 385 ITR 346 (Karnataka)

(ix) CIT vs. Calcutta Knitwears (2014) 362 ITR 673(SC)

(x) Vinit Kumar vs. CBI, 2019 SCC OnLine Bom 3155

(xi) Manish Maheshwari vs. ACIT (2007) 289 ITR 341 (SC)

(xii) CIT vs. Jasjit singh (2023) 155 Taxmann.com 155(SC)

(xiii) DCIT vs. Sunil Kumar Sharma, Review Petition (Civil) / Diary No.60856/2024

(xiv) CIT vs. Tara Agencies, (2007) 292 ITR 444(SC)

(xv) Davanam Constructions vs. DCIT, WP 11459 of 2021

(xvi) CIT(A) and others vs. Sunil Kumar Sharma - RP No. 218 of 2024

(xvii) CIT vs. Wipro Finance Ltd., (2010) 323 ITR 467 (Karnataka)

(xviii) Mary Pushpam vs. Telvi Curusumary and ors Civil Appeal No.9941 of 2016

(ix) CIT vs. Sunil Kumar Sharma, SLP (Civil) Diary No. 21526 of 2024.

(xx) CIT vs. Sunil Kumar Sharma - SLP (Civil) Diary No.23406 of 2024

(xxi) CIT vs. Sunil Kumar Sharma - SLP (Civil) Diary No.33939 of 2024

(xxii) Parashuram Pottery Works Co. Ltd. vs. ITO (1977) 106 ITR 1 (SC)

(xxiii) CIT vs. Thana Electricity Supply Ltd. (1994) 206 ITR 727 (Bombay)

(xxiv) Ranganath Associates vs. Union of India, (2003) 128 Taxman 228 (Karnataka)

(xxv) Sri D. Ramachandrappa and others vs. Union of India and others, WA 3462-63 of 2003 and connected matters (Karnataka)

(xxvi) The Century Spinning Mfg. Co and others vs. State of West Bengal and others (1989) 73 STC 277

(xxvii)CIT vs. Vallabhdas Vithaldas, (2002) 123 taxman 110 (Gujarat)

(xxviii)Suganthi Suresh Kumar vs. Jagdeeshan (2002) 2 SCC 420

(xxix) CIT vs. Jagadish Jakati and Co. (1979) 119 ITR 19 (karnataka)

(xxx) CIT vs. Shaan Finance (P) Ltd., (1998) 231 ITR 308 (SC)

(xxxi) CIT vs. TVS Lean Logistics Ltd., (2007) 293 ITR 432 (Madras)

(xxxii)CESC Ltd., vs. DCIT, (2003) 263 ITR 402 (Calcutta)

(xxxiii)Amar Jewellers Ltd., vs. ACIT (2022) 137 Taxmann.com 249 (Gujarat)

(xxxiv)PCIT vs. Saumya Construction (P.) Ltd., (2016) 387 ITR 529 (Gujarat)

(xxxv)PCIT vs. Abhisar Buildwell (P.) Ltd., (2023) 454 ITR 212 (SC)

5. We have considered the submissions advanced by the learned Senior Standing Counsel appearing for the appellant–Revenue and the learned Senior Counsel appearing for the respondent–assessee.

RELEVANT PROVISIONS

6. Before proceeding to consider the contentions urged by the parties, it is necessary to examine the provisions of Sections 132, 153A, and 153C of the Income-tax Act, 1961, as

well as Rule 112 of the Income-tax Rules, 1962, which read as under:

> ***Search and seizure.***
>
> ***132.*** *(1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that—*
>
> *(a)* ***any person*** *to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or*
>
> *(b)* ***any person*** *to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or*
>
> *(c)* ***any person*** *is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),*
>
> *then,—*
>
> *(A) the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, may authorise any Additional Director or Additional Commissioner or Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant*

Commissioner or Deputy Commissioner or Income-tax Officer, or

(B) such Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—

(i) enter and search any ***building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;***

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

(iia) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

(iib) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

(iii) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search:

(Emphasis supplied)

Provided *that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;*

(iv) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(v) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing :

Provided *that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c), then, notwithstanding anything contained in section 120, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue :*

Provided further *that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iii):*

Provided also *that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:*

Provided also *that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.*

[*Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.****]***

(1A) Where any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Principal Director General or Director General or Principal Director or Director or any other Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner to take action under clauses (i) to (v) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, notwithstanding anything contained in section 120, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

[*Explanation.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.****]***

(2) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) or sub-section (1A) and it shall be the duty of every such officer to comply with such requisition.

(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1).

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account,

documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

Explanation.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;
(ii) that the contents of such books of account and other documents are true ; and
(iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(5) [***]
(6) [***]
(7) [***]

(8) The books of account or other documents seized under sub-section (1) or sub-section (1A) shall not be retained by the authorised officer for a period exceeding thirty days from the date of the order of assessment under section 153A or clause (c) of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director for such retention is obtained :

Provided *that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner,*

Principal Director General or Director General or Principal Director or Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

[(9B) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recor-ded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Princi-pal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purpose, the provisions of the Second Schedule shall, mutatis mutandis, apply.

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B).

(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was

*executed, make a reference to a Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the said officer within a period of sixty days from the date of receipt of such reference.**]***

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (1A) objects for any reason to the approval given by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.
(11) [***]
(11A) [***]
(12) [***]

(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).

(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(i) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;
(ii) for ensuring safe custody of any books of account or other documents or assets seized.

[*Explanation 1.—For the purposes of sub-sections (9A), (9B) and (9D), with respect to "execution of an authorisation for search", the provisions of sub-section (2) of section 153B shall apply.**]***

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

Assessment in case of search or requisition.

153A. *(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 [96][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] :

(Emphasis supplied)

Provided *that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years [96][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 :*

Provided also *that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases 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]:

*[**Provided also** that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—*

(a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that 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 or in aggregate in the relevant assessment years;
(b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and
(c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.]
(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.*

Explanation.—For the removal of doubts, it is hereby declared that,—
(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;

(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

Assessment of income of any other person.

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 [2][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 :*

(Emphasis supplied)

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 [3][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 sub-section (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.

***112. Search and Seizure**.—(1) The powers of search and seizure under Section 132 shall be exercised in accordance with sub-rules (2) to (14).*

(2) (a) The authorisation under sub-section (1) of Section 132 (other than an authorisation under the proviso thereto) by the Director General or Director of Inspection or the Chief Commissioner or Commissioner or any such Deputy Director or Deputy Commissioner as is empowered by the Board in this behalf shall be in Form No. 45;

(b) the authorisation under the proviso to sub-section (1) of Section 132 by the Chief Commissioner or Commissioner shall be in Form No. 45-A;

(c) the authorisation under sub-section (1-A) of Section 132 by a Chief Commissioner or Commissioner shall be in Form No. 45-B.

(2-A) Every authorisation referred to in sub-rule (2) shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(3) Any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall, on demand by the officer authorised to exercise the powers of search and seizure under Section 132 (hereinafter referred to as the authorised officer) and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein.

(4) If ingress into such building or place cannot be so obtained it shall be lawful for the authorised officer executing the authority, with such assistance of police officers or of

officers of the Central Government, or of both, as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

> *Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, the authorised officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.*

(4-A) If ingress into any vessel, vehicle or aircraft authorised to be searched cannot be obtained because such vessel, vehicle or aircraft is moving or for any other reason, it shall be lawful for the authorised officer with such assistance of police officers or of officers of the Central Government or of both, as may be required, to stop any such vessel or vehicle or, in the case of an aircraft, compel it to stop or land, and search any part of the vessel, vehicle or aircraft; and in order to effect an entrance into such vessel, vehicle or aircraft, to break open any outer or inner door or window of any such vessel, vehicle or aircraft, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

> *Provided that if any such vessel, vehicle or aircraft is occupied by a woman, who according to custom does not appear in public, the authorised officer shall, before entering such vessel, vehicle or aircraft, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.*

(4-B) The authorised officer may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such building, place, vessel, vehicle or aircraft to open the same and allow access to inspect or examine its contents, and where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe almirah or other receptacle which the authorised officer may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

(4-C) The authorised officer may, where it is not practicable to seize the money, bullion, jewellery or other valuable article or thing or any books of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of the authorised officer, who may take such steps as may be necessary for ensuring compliance with this sub-rule.

(5) Any person referred to in clause (iia) of sub-section (1) of Section 132 may be searched by the authorised officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with strict regard to decency.

(6) Before making a search, the authorised officer shall,—

(a) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and

(b) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons to attend and witness the search and may issue an order in writing to them or any of them so to do.

(7) The search shall be made in the presence of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by the authorised officer and signed by such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or the Act unless specially summoned.

(8) The occupant of the building, place, vessel, vehicle or aircraft searched, including the person in charge of such vessel, vehicle or aircraft, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person. A copy thereof shall be forwarded to the Chief Commissioner or Commissioner and, where the authorisation has been issued by any officer other than the Chief Commissioner or Commissioner, also to that officer.

(9) Where any person is searched under clause (iia) of sub-section (1) of Section 132, a list of all things taken possession of shall be prepared and a copy thereof shall be

delivered to such person. A copy thereof shall be forwarded to the Chief Commissioner or Commissioner and, where the authorisation has been issued by any officer other than the Chief Commissioner or Commissioner, also to that officer.

(10) The authorised officer shall place or cause to be placed the bullion, jewellery and other valuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein; every such package shall bear an identification mark and the seal of the authorised officer or any other income-tax authority not below the rank of Assessing Officer and the occupant of the building, place, vessel, vehicle or aircraft including the person in charge of such vessel, vehicle or aircraft searched or any other person in his behalf shall also be permitted to place his seal on them. A copy of the list prepared shall be delivered to such occupant or person. A copy shall be forwarded to the Chief Commissioner or Commissioner, and where the authorisation has been issued by any officer other than the Chief Commissioner or Commissioner, also to that officer.

(11) The authorised officer may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any, referred to in sub-rule (10) to the office of any income-tax authority not below the rank of Assessing Officer (hereinafter referred to as the Custodian). Any money seized in the search referred to above may also be deposited with the Custodian.

(12) (i) The Custodian shall take such steps as he may consider necessary for the safe custody of—

(a) books of account and other documents, and
(b) the package or packages, conveyed to him.

(ii) The Custodian may deposit for safe custody all or any of the packages with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or the authorised bank or a Government Treasury.

(iii) Where any money has been deposited with the Custodian, he may credit the money, or remit the money through the nearest branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank for being credited in the personal Deposit Account of the Chief Commissioner or Commissioner in the branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank

at the place where the office of the Chief Commissioner or Commissioner is situate.

(13) (i) Whenever any sealed package is required to be opened for any of the purposes of the Act, the authorised officer may, unless he is himself the Custodian, requisition the same from the Custodian and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by the Custodian. The authorised officer may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

(ii) Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be.

(14) The Assessing Officer to whom the books of account or other documents or assets have been handed over under sub-section (9-A) of Section 132 shall have all the powers conferred on the authorised officer under sub-rules (11) and (13).

ANALYSIS

7. Section 132 of the Act can broadly be understood in distinct parts. Sub-section (1) of Section 132 deals with the competent authority empowered to record satisfaction, on the basis of information in its possession, for the purpose of issuing a warrant of authorization for search. The provision contemplates: (i) the authorities competent to record such "reason to believe"; (ii) the authorities competent to execute the warrant of search; (iii) the person in respect of whom such satisfaction is to be recorded; and (iv) the premises in which the warrant of authorization is to be executed.

7.1 In the present appeal, there is no challenge to the competency of the authority issuing the warrant of authorization, nor to the validity of the search warrant or the correctness of the premises searched. The controversy is confined to the determination of the "searched person".

7.2 Under Section 132(1), the competent authority, in consequence of information in its possession, may form a "reason to believe" that: (a) any person to whom a summons under Section 131(1) or a notice under Section 142(1) has been issued to produce books of account or documents has omitted or failed to produce the same; or (b) such person would not produce the said material even if so summoned; or (c) any person is in possession of money, bullion, jewellery, or other valuable articles or things representing wholly or partly undisclosed income or property. Upon recording such satisfaction, the competent authority may authorize the conduct of a search in terms of the provision.

7.3 Clauses (a) to (c) of Section 132(1) thus pertain to the formation of satisfaction in respect of a person. On the other hand, clauses (i) to (v) thereof deal with the nature of actions that may be undertaken pursuant to such authorization,

including the place or premises where the search is to be carried out and the consequential steps that may follow.

7.4 Thus, while the "reason to believe" is person-centric, the execution of the authorization extends to the premises where the competent authority has reason to suspect that the specified materials are kept.

7.5 When satisfaction is recorded for the issuance of a warrant of authorization for search, the competent authority is required to specify the details of the building, place, vessel, vehicle, or aircraft in respect of which it has reason to suspect that books of account, documents, money, bullion, jewellery, or other valuable articles or things are kept.

7.6 A close reading of clauses (a) to (c) and clauses (i) to (v) of Section 132(1) indicates that the satisfaction contemplated under clauses (a) to (c) is in relation to a person, whereas the authorization under clauses (i) to (v) pertains to the premises or locations where the search is to be carried out. The provision does not mandate that the premises to be searched must necessarily belong to the person referred to in clauses (a) to (c). Rather, it is sufficient if the competent authority has reason

to suspect that the specified items are kept in such building, place, vessel, vehicle, or aircraft.

7.7 Further, while the formation of "reason to believe" under clauses (a) to (c) is person-centric, the standard applicable to the place of search is one of "reason to suspect". The legislative intent underlying Section 132(1) clearly distinguishes between the person in respect of whom satisfaction is recorded and the premises where the search is to be executed.

7.8 To determine who is the "searched person", clauses (a) to (c) and clauses (i) to (v) must be read conjointly. On such a reading, it becomes evident that the person searched is the person against whom satisfaction is recorded under clauses (a) to (c). Once such satisfaction is recorded for issuance of a warrant of authorization, the place of search and consequential actions fall within the ambit of clauses (i) to (v).

7.9 Thus, the identity of the "searched person" is to be determined with reference to the person against whom satisfaction is recorded, and not with reference to the ownership of the premises searched. It follows that a search under Section 132 of the Act is person-centric and not premise-centric.

8. Rule 112 of the Rules, prescribes the procedure for search and seizure. The authorization for search is issued in Form No.45. Sub-rule (3) mandates that any person who is in charge of, or in possession of, any building, place, vessel, vehicle, or aircraft authorized to be searched shall, upon demand by the authorized officer and on production of the warrant of authorization, permit free ingress thereto and afford all reasonable facilities for the conduct of the search.

8.1 The remaining sub-rules delineate the manner in which the search and seizure are to be carried out. A conjoint reading of the provisions of Rule 112 makes it clear that the premises to be searched need not necessarily belong to the person in respect of whom satisfaction is recorded under Section 132 of the Act. The place of search may well be owned, possessed, or occupied by a person other than the person referred to in Section 132 of the Act.

8.2 However, the precondition for such search of a premises is that the competent authority must have "reason to suspect" that the books of account, documents, money, bullion, jewellery, or other valuable articles or things of the person,

referred to in Clause (a) to (c) of Section 132(1) of the Act, are kept in such building, place, vessel, vehicle, or aircraft.

9. In order to determine whether the warrant of authorization was issued against the respondent, and whether the respondent can be regarded as a 'searched person' within the meaning of Section 132 of the Act, we directed the appellant–Revenue, during the course of hearing, to place on record the satisfaction note recorded under Section 132 of the Act, the warrant of authorization in Form No.45, and the panchanama drawn during the course of the search.

9.1 The said documents were accordingly produced before the Court. Upon perusal of the satisfaction note, the warrant of authorization, and the panchanama, we further directed the officer present in Court to place attested copies of the said documents in a sealed cover. In compliance with the said direction, the documents have been placed before the Court in a sealed cover.

9.2 A perusal of the satisfaction note recorded by the competent authority indicates that the satisfaction, as contemplated under clauses (a) to (c) of Section 132(1), has been recorded in relation to Sri K. Narayan Raju. The "reason

to suspect", in terms of clauses (i) to (v), refers to the existence of material pertaining to alleged tax evasion by the said person, which is suspected to be kept in the premises of the respondent – residence of Mr. C.R. Ram Mohan Raju, namely, No.24, Lakshmi Niwas, 4th Cross Road, KR Layout, JP Nagar 6th Phase, Bengaluru.

9.3 Similarly, the warrant of authorization issued in Form No. 45 specifies the name of the person as Sri K. Narayan Raju, while also setting out the particulars of the building, place, vessel, vehicle, or aircraft in respect of which the competent authority has reason to suspect that the books of account, documents, money, bullion, jewellery, or other valuable articles or things are kept. In this context, the residential premises of the respondent has been described as the place of search.

9.4 The relevant portion of the warrant of authorization reads as under:

FORM No.45
[See rule 112]
Warrant of authorisation under section 132 of the Income -tax Act, 1961, and rule 112(1) of the Income -tax Rules, 1962

If a summons under sub -section (1) of section 37 of the Indian Income -tax Act, 1922, or under sub -section (1) of section 131 of the Income-tax Act, 1961, or a notice under sub -section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub -section (1) of section 142 of the Income-

*tax Act, 1961, was issued to **Mr. K. Narayana Raju** [name of the person] to produce, or cause to be produced, books of account or other documents which will be useful for, or relevant to, proceedings under the Indian Income tax Act, 1922, or under the Income -tax Act, 1961, he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice;*

*Sarvashri/Shri/Shrimati **Mr. K. Narayana Raju** are/is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income -tax Act, 1922, or the Income -tax Act, 1961;*

*And whereas I have reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing have been kept and are to be found in **Residence of Mr. C.R. Rammohan Raju, No.24, Lakshmi Niwas, 4th Cross Road, K.R. Layout, J P Nagar, 6th phase, Bangalore** (specify particulars of the building/place/vessel/vehicle/aircraft); This is to authorise and require you **as per overleaf** [name of the Addl. Director or of the Addl. Commissioner or of the Joint Director or of the Joint Commissioner or of the Deputy Director or of the Deputy Commissioner or of the Assistant Director or of the Assistant Commissioner or of the Income-tax Officer] -*

(a) to enter and search the said building/place/vessel/vehicle/aircraft;
…"

9.5 Similarly, in the panchanama, the warrant is shown as having been issued in the name of Sri K. Narayan Raju. In the column relating to the warrant of search (details and ownership of the premises searched), the residential premises of the respondent is mentioned.

9.6 While considering the particulars of the residential premises of the respondent as reflected in the warrant of

authorization, the mention of Sri K. Narayan Raju as the person in whose name the warrant has been issued cannot be ignored. Both aspects are required to be read conjointly.

9.7 For the sake of convenience, Columns 'A' and 'B' of the panchanama are extracted hereunder:

PANCHANAMA

A) Warrant in the case of	:	Shri K. Narayan Raju Party No. CRM-1,
B) Warrant to search (Details & Ownership of the search)	:	Residence of Shri C.R. Rammohan Raju No.24 No.24, Lakshmi Niwas, 4th Cross Road, K.R. Layout, J.P. Nagar, 6th Phase, Bangalore.

9.8 Column 'A' of the panchanama corresponds to clauses (a) to (c) of Section 132(1) of the Act, while Column 'B' relates to clauses (i) to (v) thereof. This delineation makes it explicit that the warrant of authorization is issued in the name of a person, whereas the place of search is identified based on the "reason to suspect" that the books of account, documents, money, bullion, jewellery, or other valuable articles or things are kept therein.

9.9 It thus follows that the premises to be searched need not necessarily belong to the person referred to in clauses (a) to

(c). Unless satisfaction, as contemplated under clauses (a) to (c), is recorded in respect of a person, the mere fact that other person is the owner or occupant of the premises searched, as in the present case, would not render him a 'searched person' within the meaning of Section 132 of the Act.

9.10 For invoking Section 153A of the Act, initiation of search under Section 132 in the case of a person is a *sine qua non*. The expression "in the case of a person where a search is initiated under Section 132" necessarily postulates that the conditions stipulated in clauses (a) to (c) of Section 132(1) are satisfied in respect of such person. Mere search of a premises, as contemplated under clauses (i) to (v), without satisfaction recorded against the person under clauses (a) to (c), would not attract Section 153A of the Act.

10. Learned counsel for the respondent contends that searched person is to be determined with reference to the premises. Acceptance of such contention results in absurdity and renders Section 153A unworkable.

10.1 Section 132 mandates the recording of a "reason to believe", as set out in clauses (a) to (c), in respect of a person and a "reason to suspect" in respect of a place under clause (i).

If a notice under Section 153A is issued solely on the basis of the premises referred to in clause (i), there would be no compliance with clauses (a) to (c). In that event, the very foundation for invoking Section 153A would be absent.

10.2 It is not the case of the respondent that, where a notice under Section 153A is issued with reference to a premises, there is no requirement to record satisfaction in terms of clauses (a) to (c) in respect of a person. When this aspect was queried to the learned counsel for the respondent, it was submitted that such a question could be raised only when a notice under Section 153A is issued on a premise specific basis.

10.3 Section 153C of the Act, on the other hand, expressly applies to a person other than the person referred to in Section 153A. For invocation of Section 153C, the statutory requirements include the handing over of books of account, documents, or assets seized or requisitioned to the Assessing Officer having jurisdiction over such other person, and the issuance of notice by the said Assessing Officer. These constitute jurisdictional preconditions.

10.4 In the present case, compliance with the jurisdictional requirements for invoking Section 153C of the Act is not in

dispute. The challenge to the invocation of Section 153C is founded solely on the contention that proceedings ought to have been initiated under Section 153A of the Act, on the premise that the residential premises of the respondent was subjected to search.

11. The Hon'ble Supreme Court, in ***Pooran Mal v. Director of Inspection [(1974) 93 ITR 505 (SC)/ 1973 SCC OnLine SC 401]***, after considering Section 132 of the Act and Rule 112 of the Rules, has held as under:

> ***"5.*** *It will be seen in the first place that the power to direct a search and seizure is given to the Director of Inspection or the Commissioner. Secondly, the authorisation for such search and seizure must be in favour of officers not below the grade of an Income Tax Officer. Thirdly, the power to authorise search and seizure can be exercised only when the Director of Inspection or the Commissioner has reason to believe (1) that in spite of the requisitions under the relevant provisions mentioned in Section 132(1)(a) the required books and documents have not been produced; (2) that any person, whether requisition under the above provisions is made or not, will not, or would not, produce or cause to be produced, any books of account and other documents which will be useful for, or relevant to, any proceeding under the Income Tax Act; or (3) that any person is in possession of any money, bullion, jewellery or any other valuable article or thing representing either wholly or partly undisclosed income or property. When the authorisation is given by the Director of Inspection or the Commissioner, as the case may be, it must be limited to the five purposes mentioned in sub-clauses (i) to (v) of sub-section (1). Sub-section (14) provides for the making of rules in relation to any search or seizure. Accordingly, Rule 112 has been framed which says that the powers of search and seizure under Section 132 shall be exercised in accordance with sub-rules (2) to (14) under Rule 112. These are detailed rules setting out the procedure for making the search and seizure and for the custody of what has been seized."*

12. The Hon'ble Supreme Court in ***CIT v. Laljibhai Kanjibhai Mandalia [2022 SCC OnLine SC 872 / (2022) 446 ITR 18 (SC)]*** has restated and elaborated the principles governing the exercise of jurisdiction in matters of search and seizure under Section 132 of the Act, as well as the requirements to be satisfied for invoking the said provision, as under:

> ***"40.*** *We would like to restate and elaborate the principles in exercising the writ jurisdiction in the matter of search and seizure under Section 132 of the Act as follows:*
>
> ***40.1.*** *The formation of opinion and the reasons to believe recorded is not a judicial or quasi-judicial function but administrative in character.*
>
> ***40.2.*** *The information must be in possession of the authorised official on the basis of the material and that the formation of opinion must be honest and bona fide. It cannot be merely pretence. Consideration of any extraneous or irrelevant material would vitiate the belief/satisfaction.*
>
> ***40.3.*** *The authority must have information in its possession on the basis of which a reasonable belief can be founded that the person concerned has omitted or failed to produce books of accounts or other documents for production of which summons or notice had been issued, or such person will not produce such books of accounts or other documents even if summons or notice is issued to him.*
>
> ***40.4.*** *Such person is in possession of any money, bullion, jewellery or other valuable article which represents either wholly or partly income or property which has not been or would not be disclosed.*
>
> ***40.5.*** *Such reasons may have to be placed before the High Court in the event of a challenge to formation of the belief of the competent authority in which event the Court would be entitled to examine the reasons for the formation of the belief, though not the sufficiency or adequacy thereof. In other words, the Court will examine whether the reasons recorded are actuated by mala fides or on a mere pretence and that no extraneous or irrelevant material has been considered.*

> ***40.6.*** *Such reasons forming part of the satisfaction note are to satisfy the judicial consciousness of the Court and any part of such satisfaction note is not to be made part of the order.*
>
> ***40.7.*** *The question as to whether such reasons are adequate or not is not a matter for the Court to review in a writ petition. The sufficiency of the grounds which induced the competent authority to act is not a justiciable issue.*
>
> ***40.8.*** *The relevance of the reasons for the formation of the belief is to be tested by the judicial restraint as in administrative action as the Court does not sit as a court of appeal but merely reviews the manner in which the decision was made. The Court shall not examine the sufficiency or adequacy thereof.*
>
> ***40.9.*** *In terms of the Explanation inserted by the Finance Act, 2017 with retrospective effect from 1-4-1962, such reasons to believe as recorded by the Income Tax Authorities are not required to be disclosed to any person or any authority or the Appellate Tribunal."*

13. A Coordinate Bench of this Court, while dealing with the scope and ambit of Section 132 of the Act in ***C. Ramaiah Reddy v. CIT [2010 SCC OnLine Kar 5172 / (2011) 339 ITR 210 (KAR)]***, has held as under:

> ***"23.*** *The scheme of section 132 shows that a warrant of search can be issued on having received information and on having reason to believe therefrom that a person is in possession of assets which has not been or would not be disclosed. Having received information, the authorising officer has to satisfy himself that a particular person is in possession of undisclosed assets. The empowered authority in consequence of information in possession, only when he has reason to believe that any of the conditions mentioned in clauses (a), (b) and (c) of sub-section (1) of section 132 exists, then only he may authorise an officer mentioned in clause (A), clause (B) of sub-section (1) of section 132 to enter and search as provided under clauses (i), (ii), (iia), (iib), (iii), (iv) and (v). No warrant will be issued merely on the basis of suspicion or to make a roving or fishing enquiry to unearth the concealed assets. It is only when the authorising officer is fully satisfied that the information would*

lead to the discovery of undisclosed assets, that the warrant of search will be issued. Therefore, it is obligatory on the part of the empowered officer to record in writing the grounds of search as set out in the aforesaid provision and then only he can authorise an authorised officer to enter and search as provided under the said provision. The provision of the Code of Criminal Procedure relating to searches and seizure are made applicable to searches and seizures under sub-section (1) or sub-section (1A) of section 132 of the Act so far as may be. Under the Criminal Procedure Code, the police officer is bound to record in writing the grounds of his plea, as to the necessity for such search and specify clearly the article or articles for which the search is to be made. The recording of the reasons is an important aspect in the matter of search and to ignore it is to ignore the material part of the provisions governing such search. If this step is ignored, search would be in contravention of the provisions of the Act. The requirement of sub-section (1) are clearly intended to restrain a police officer from initiating or conducting anything in the nature of general search. Similarly, the empowered authority under the Act, after recording reasons only order a search of premises, if he has reason to believe that one or more of the conditions in section 132(1) exist. The order is in the form of an authorisation in favour of a subordinate Departmental officer authorising him to enter and search any building or place specified in the order and to exercise the powers and perform the functions mentioned in section 132(1). The section does not confer any arbitrary authority upon the Revenue officers. The Commissioner or the Director of Inspection must have, in consequence of information, reason to believe that the statutory conditions for the exercise of the power to order search exist. He must record reasons for the belief and he must issue an authorisation in favour of a designated officer to search the premises and exercise the powers set out therein. Since by the exercise of the power a serious invasion is made upon the rights, privacy and freedom of the tax- payer, the power must be exercised strictly in accordance with the law and only for the purposes for which the law authorises it to be exercised. If the action of the officer issuing the authorisation or of the designated officer is challenged, the officer concerned must satisfy the court about the regularity of his action. The measure would be objectionable if its implementation is not accompanied by the safeguards against its undue and improper exercise. If the safeguards are generally on the lines adopted by the Criminal Procedure Code, they would be regarded as adequate and render the temporary restrictions imposed by the measure reasonable. These safeguards are:

> *(i) the empowered officer must have reasonable grounds for believing that anything necessary for the*

purpose of recovery of tax may be found in any place within his jurisdiction,

(ii) he must be of the opinion that such thing cannot be otherwise got without undue delay,

(iii) he must record in writing the grounds of his belief, and

(iv) he must specify in such writing so far as possible the thing for which search is to be made. These safeguards apply to searches under sub- section (2).

24. *It clearly shows that the power to search under sub-section (2) is not arbitrary. In the first place, it must be noted that the power to order search and seizure is vested in the highest officers of the Department. Secondly, the exercise of this power can only follow a reasonable belief entertained by such officer that any of the three conditions mentioned in section 132(1) (a), (b) and (c) exists. In this connection, it may be further pointed out that under sub-rule (2) of rule 112, the Director of Inspection or the Commissioner, as the case may be, has to record his reasons before the authorisation is issued to the officers mentioned in sub-section (1). Thirdly, the authorisation for the search cannot be in favour of any officer below the rank of an Income-tax Officer. Fourthly, the authorisation is for specific purposes enumerated in clauses (i) to (v) in sub-section (1), all of which are strictly limited to the object of the search. Fifthly, when money, bullion, etc., is seized the Income-tax Officer is to make a summary enquiry with a view to determine how much of what is seized will be retained by him to cover the estimated tax liability and how much will have to be returned forthwith. This is most important. Rule 112 provides for the actual search and seizure being made after observing normal decencies of behaviour.*

14. A Coordinate Bench of this Court in ***CIT v. Associated Mining Company [2019 SCC OnLine Kar 3581 / (2019) 108 TAXMANN.COM 564 (Karnataka)]***, while examining the scope of Sections 132 and 153A of the Act, has held as under:

"12. *A plain reading of section 153A would indicate that it is a non obstante provision which is invoked in case of a person where the search is initiated under section 132 or books of account, other documents or any assets are*

requisitioned under section 132A. It mandates that notice under section 153A is to be issued, calling upon the assessee in whose case the search was conducted to file return of income for six assessment years in the prescribed form and thereupon the Assessing Officer is required to assess or reassess the total income of the said six years. This provision when read in conjunction with section 132 would indicate that mere conducting of search or in other words, where a search has been initiated under section 132 would suffice to issue notice under section 153A and the limitation for completion of the assessment is reckoned and would be counted for the date as recorded in the last panchanama drawn in relation to any person.

13. *A plain reading of section 132 of the Act would disclose that when the competent authority has reason to believe that any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion or jewellery or other valuable articles or other thing represents either wholly or partly, income or property which has not been or would not be disclosed for the purposes of the Act would partake of the characteristic of an undisclosed income or property, then, warrant of search would be issued authorising the officer indicated in sub-clause (A) or (B) to enter and search any building, place, vessel etc., are kept. Thus, the intention of the Legislature is clear from the expression and language found in sub-section (1) of section 132 that location of the premises is in relation to the satisfaction to be reached by the authorities mentioned therein and the authorised officer would be empowered to search any place mentioned in the warrant as well as any other place where he suspects that books of account belonging to the assessee have been kept."*

"16. *In this background, we have perused the warrant of authorisation issued under section 132 of the Act and rule 112(1) of the Income-tax Rules, 1962 which would clearly indicate that the said warrant was issued for conducting the search of M/s. Associated Mining Company expressing thereunder that authority contemplated under sub-section (1) of section 132 has reason to suspect that such books of account, other documents of the noticee, are to be found in the premises at 18/35, II link Road, Parvathinagar, Ballari. The premises which has been searched is the same premises as indicated in the authorisation. This fact is not in dispute. However, what has been disputed is, the said premises did not belong to the assessee. The language or expression of sub-section (1) of section 132 is clear and unambiguous. The location of the premises is in relation to the satisfaction reached by the authorities mentioned therein and the authorised officer can search any place mentioned in the warrant including any other place where he suspects that the*

books of account belonging to the assessee are kept and as such, the mere change of address of the assessee even being in the know of the Income-tax Department by itself would not vitiate or invalidate the search conducted under section 132 of the Act.

17. *Even otherwise, in the instant case, the search conducted is in respect of the premises where the business of the firm carried on earlier and continued by Sri K.M. Vishwanath, who no doubt had retired from the partnership of the assessee-firm and it is in this premises where the books of account relating to the assessee-firm has been found and seized, which by itself proves the fact that the said premises was used by the assessee even as on the date of search conducted. In fact, the hon'ble Delhi High Court has held that "address being different" would not vitiate the search and a person can also operate or keep books of account, jewellery etc., at different places and not necessarily the registered office or where the business is conducted. Hence, the search conducted in the premises in which the assessee may not be carrying on the business would not nullify the search. However, if the search is conducted in a premises other than what is reflected in the authorisation, then, the consequences would be different. In the instant case, search has been conducted in the premises, the address of which is reflected in the authorisation and undisputedly, occupied by Mr. K.M. Vishwanath, who was the erstwhile partner of the assessee-company till he retired on July 31, 2009. Despite notice issued under section 153A of the Act, the said Sri K.M. Vishwanath had not filed his return of income and had replied to the said notice contending that he is no longer a partner by enclosing the deed of retirement and deed of admission of other two partners. In this background, the Assessing Officer has concluded the proceedings under section 144 of the Act which had been affirmed by the Commissioner of Income-tax (Appeals) and erroneously on the ground of search having been conducted in the premises not belonging to the assessee, the appeal came to be allowed which is contrary to the tenor and language of section 132 of the Act. Hence, we answer the substantial questions of law in favour of the Revenue and against the assessee."*

15. The Rajasthan High Court in ***CIT v. Smt. Umlesh Goel [2016 SCC OnLine Raj 10715 / (2016) 74 taxmann.com 37 (Rajasthan)]***, while examining the provisions of Sections

132, 158BC, and 158BD, which are *pari materia* to Sections 153A and 153C of the Act, has held as under:

> ***"13.*** *On analysing the provisions of section 132(1) read with section 158BC and 158BD, while section 132(1) authorises to carry out search and seizure operation where the Revenue comes into possession of information that an assessee may be evading tax or has reason to suspect that a person has money, bullion and jewellery and other valuable articles or things, books of account, etc., which does not depict true income, then a search is necessitated or got conducted."*
>
> ***15.*** *xxxxxx*
>
> *15.1 Provision of section 158BC is attracted "where any search has been conducted under section 132 in the case of any person". In our view from these words it should statutorily mandate that search should have been carried out under section 132(1) in the name of a person before invoking the provision of section 158BC. "Person" should normally mean name depicted in the warrant of authorisation, and the authority authorising a search has to have information in his possession in respect of a person and such a person should be specifically named in the search warrant. Though "family" is not defined under the Income-tax Act but could not be stretched to cover all the family members, namely wife, daughter, children, etc. Under the Income-tax Act "Person" has been defined in section 2(31) which reads thus:*
>
> *"'Person' includes—*
> *(i) an individual;*
> *(ii) a Hindu undivided family;"*
>
> ***"16.*** *Xxxxxxx*
> *Xxxxxx*
>
> *16.3 Since by the exercise of the power a serious invasion is made upon the rights, privacy and freedom of the taxpayer, the power must be exercised strictly in accordance with law and only for the purposes for which the law authorises it to be exercised. If the action of the officer issuing the authorisation or of the designated officer is challenged, the officer concerned must satisfy the court about the correctness of his action. Therefore, in our considered view a search under section 132(1) has to be "person specific". The authority authorising search has to have information in his possession in respect of a person and such a person should be specifically named in search warrant and since names of the assessees having not figured in the authorisation of warrant as having been*

proved on the basis of Form 45 which has been reproduced by us in para 16 hereinbefore, the Assessing Officer has exceeded its jurisdiction in issuing the notice under section 158BC and initiation of the proceedings being invalid, all subsequent action of the Assessing Officer including order of assessment is not sustainable in law.

16.4 xxxxxxx

16.5 For the reasons assigned and our observation that when a search action under section 132(1) has to be "person specific" and when admittedly the names of the present assessees did not figure in the warrant, we hold the Assessing Officer had committed an apparent error to assess the assessees. Accordingly, we answer the question of law in favour of the assessee and against the Revenue, with no order as to costs."

16. The High Court of Delhi in ***Shilpa Chowdhary vs. CIT [2020 SCC OnLine Del 2097 / (2021) 430 ITR 218 (Delhi)]***, while examining the provisions of Section 132 of the Act, has held as under:

"11. *Let's now examine the relevant provision. A careful reading of section 132 discerns that the competent authority can issue a WoA for search and seizure if such an authority, in consequence of information in his possession, has "reason to believe" that conditions stipulated in either of clauses (a), (b) or (c) of the section are satisfied. Such authorization is given in Form 45 under section 132 of the Act read with rule 112(1) of the Income- tax Rules, 1962. The first proviso to section 132(1) also contemplates a WoA and provides that the Principal Chief Commissioner/Chief Commissioner or Principal Commissioner/Commissioner of Income-tax/such other authority as named in the said proviso, has the power to authorize a search of any building, place, vessel, vehicle or aircraft of a person which is under his jurisdiction and also in cases where such building, place, vessel, vehicle or aircraft is in his area of jurisdiction but he has no jurisdiction over the persons concerned, if he has reason to believe that any delay in obtaining authorization from the Principal Chief Commissioner of Income-tax/Chief Commissioner of Income-tax or Principal Commissioner/Commissioner having jurisdiction*

over the person would be prejudicial to the interests of the Revenue. This authorization is issued under Form 45A under the first proviso to sub-section (1) of section 132 of the Act with rule 112(2)(b) of the Rules. Section 132(1A) envisions a different scenario. Under this provision, where a search for any books of account/other documents/assets has been authorized by any authority who is competent to do so, and some other Chief Commissioner/Commissioner in consequence of information in his possession has reason to suspect that such books of account/other documents/assets of the assessee are kept in any building, place, vessel, vehicle or aircraft, not specified in the search warrant issued by such authority, he may authorize the authorized officer to search such other building, place, vessel, vehicle or aircraft. This warrant is issued as per Form 45B under sub-section (1A) of section 132 read with rule 112(2)(c) of the Rules.

12. *Thus, we can see that the Act provides for the three different warrants of authorisation which apply to different situations. Now, in the facts of the present case, the initial warrant dated February 5, 2019 was issued against the primary persons, i.e., the Kochar group. However, in consequence of the information in the possession of the revenue authorities, i.e. it was suspected that the books of account/other document etc. were kept in the petitioner's premises, the said property was searched. This search action was thus under section 132(1) against the primary persons. The petitioners have erroneously assumed that the search action at their premises, between February 6, 2019 and February 9, 2019 was conducted under section 132(1A) of the Act, as a premises suspected to have material belonging to the primary persons. As demonstrated from the material placed on record, this is palpably incorrect. The respondents in their counter affidavit have categorically stated that the search was never conducted under section 132(1A) of the Act. Having perused the WoA, we are inclined to agree. As we have noticed above, the Act distinguishes between search actions under sub-sections (1) and (1A) of section 132, however the distinction is not of relevance in the facts of the case. Although the petitioners are correct is submitting that the threshold requirement to determine the validity of the authorisation for such search under section 132(1A) qua the premises is based on "reason to suspect", but they have ignored the vital fact that for search of premises this threshold - viz. "reason to suspect"- is also envisaged in section 132(1)(i) in the following words "(i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept." The only crucial factor to be borne in mind is that, while searching the premises under the above*

provision, there must be reason to believe with the competent authority to search the "person", within the contemplation of clauses (a), (b) or (c) of section 132(1). Indeed, section 132(1) of the Act empowers the Competent Authority to authorize search of a "person" who fails to, or if such competent authority believes will fail to, produce books or account or other documents in response to a summon issued under the Act; or possesses some jewellery, money or other valuable or thing representing income that such person has not disclosed or would not disclose for the purposes of the Act, and seize the relevant material found as a result of the search. Such search against a "person" can be carried out by the authorised officer by searching any building, place, vessel, vehicle or aircraft where he suspects that such books of account, other documents, money bullion, jewellery etc. are kept. These premises to be search need not necessarily belong to the searched person. On the other hand, section 132(1A) confers power to different set of officers to authorize search of a 'building, place, vehicle, vessel or aircraft' based on suspicion that any books of account or other documents, jewellery, valuables or other article or things in respect of which search has been authorized under section 132(1) is or are kept, and seize the relevant material. In the case of the petitioner, as explained above, the WoA under section 132(1) of the Act in the case of Kochar group pertained to the petitioner's premises wherein the issuing authority had reasons to suspect that the undisclosed income, books of account and documents of the Kochar group were kept or to be found. Accordingly, the search and seizure under section 132(1) of the Act in respect of the Kochar group was carried out at the premises of Vikas Chowdhary on February 6, 2019. We would like to add that we have also perused the WoAs issued by respondent No. 2 under which the searches were initiated. As shown to us, both have been issued in Form No. 45, under section 132 read with rule 112(1) of the Income-tax Rules 1962. WoA No. 7257 dated February 5, 2019 was issued to the primary persons, i. e., the Kochar group, and was in respect of the petitioner's Premises. WoA No. 7275 dated February 12, 2019 was issued to the petitioners Shilpa and Vikas Chowdhary, and was in respect of their locker No. 150F. Thus, the distinction sought to be drawn by Mr. Shrivastava is wholly irrelevant. Further the assumption and contention that, since Vikas Chowdhary was not the searched person under the WoA dated February 5, 2019, his premises could only be searched under section 132(1A) of the Act, is entirely misconceived and is rejected.

Validity of search carried out on September 6, 2019 on petitioner's premises

13. *We do not find any merit in the challenge raised by the petitioners to the search carried out at the petitioner's premises. Firstly, the petitioners have asserted that they are*

not challenging the WoA for search conducted on February 6, 2019. Secondly, no prayer has been made in this regard. Besides, as noted above, this search action in relation to the petitioner's premises was under the WoA against the Kochar group under section 132(1) of the Act. The gist of the satisfaction note, as documented in the counter affidavit, has been extracted in the succeeding paras. The same pertains to the Kochar group, whereunder the premises of the petitioner were searched, reveals that the WoA were issued because it was suspected that some of the valuables/documents of Sh. Avtar Singh Kochar were kept at the premises of the petitioner. The search action between February 6, 2019 to February 9, 2019, was therefore, not against the petitioners but against the primary persons. The petitioner's premises was searched not for Vikas or Shilpa Chowdhary's income/books of account/etc., but for the books of accounts/documents/money/bullion/jewellery/etc. belonging to the primary persons who were the subject of the search. The respondents, on physical surveillance, observed movement of cash from the petitioner's premises by motorcycle borne couriers. Therefore, the premises was identified to likely have incriminating evidence. The connection and link between the persons subjected to search (i. e., the primary persons) and the petitioner's premises was thus established. We cannot ignore the fact that documents/articles/valuables etc. belonging to primary persons can be kept with third parties and concealed anywhere in different places and locations. Thus, the authorised officer can subject any such premises to search if there are reasons to suspect that such location could be accommodating such document/articles/valuables, etc. Therefore, the jurisdictional precondition or the threshold for justifying such action qua the premises, was satisfied. Though, it has been argued that such an action is unlawful, however the entire premise of the petitioner's case is essentially founded on the plea that such action qua the petitioners was under section 132(1A) of the Act and not under section 132(1) of the Act. This factual affirmation is incorrect and has been clarified for the reasons stated hereinafter. Thus, there is no credible foundation laid out by the petitioners to challenge such an action. Even otherwise, this action of search and the consequences thereof are qua the primary persons, i. e., the Kochar group. The petitioners have no locus to challenge the same and we are not concerned with this search and consequent proceedings against the Kochar group."

17. The High Court of Gujarat in ***Zinzuwadia & Sons v. CIT [2019 SCC OnLine Guj 6952 / (2019) 265 TAXMAN 261***

(Guj)], while examining the interplay between Sections 132 and 153A of the Act, has held as under:

> ***"6.*** *In this case, the petitioner has challenged the order dated February 8, 2019 passed by the Assessing Officer and the order dated March 11, 2019 passed by the Principal Commissioner of Income-tax on the applications made by the petitioner under section 220(6) of the Act.*
>
> ***7.*** *The challenge to the said orders is based principally on the ground that on merits the petitioner has a very good case and is, therefore, entitled to the grant of unconditional stay against any recovery pursuant to the assessment order. The first ground that is advanced before this court is that no search was carried out at the premises of the petitioner and, therefore, proceedings under section 153A of Act could not have been taken against the petitioner. The second ground is that even on merits the petitioner has a very good case, inasmuch as, firstly, the amount of Rs. 7,88,85,082 added to the income of the petitioner has already been offered as sales, and hence, no addition could have been made of such amount under section 68 of the Act; and secondly, while holding that there was excess stock, the Assessing Officer has not considered the stock in the vault; and that had the stock in the vault been taken into consideration, there would have been no excess at all. According to the learned counsel for the petitioner, the petitioner has made out a prima facie case, the balance of convenience lies in favour of the petitioner and the petitioner would have to suffer undue hardship if the demand is not stayed more particularly, considering the fact that the demand is unreasonably high-pitched.*
>
> ***8.*** *On behalf of the Revenue, it has been pointed out that the warrant of authorisation has been issued in respect of the petitioner whereas the places mentioned therein are places other than the business premises of the petitioner. It has been contended that the search is qua a person and not location specific as is sought to be contended on behalf of the petitioner and that it is factually incorrect to say that no search had been conducted in respect of the petitioner. On the merits of the assessment order, it has been contended that what is shown as sales by the petitioner are in fact not sales, but the petitioner's own cash in old higher denomination notes which have been sought to be legalised by showing cash receipt in respect of sales; that such fact is supported by the fact that excess stock was found at the premises of the petitioner which indicates that in fact there were no sales.*
>
> ***9.*** *In so far as the first contention namely that in the absence of search at the premises of the petitioner, no*

proceedings could have been taken against the petitioner under section 153A of the Act is concerned, the learned counsel for the respondent had produced for the perusal of the court, a copy of the warrant of authorisation, which clearly shows that the same has also been issued in respect of the petitioner. However, the addresses for carrying out search are the residences of the partners and not the business premises of the petitioner.

11. *Thus, under sub-section (1) of section 132 of the Act, the Principal Director General or Director General or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner, or Joint Director or Joint Commissioner, as the case may be (hereinafter referred to as the higher authority), is required to form an opinion that any person satisfies the ingredients of clause (a) or (b) or (c) thereof, in which case he may authorise any of the officers of the rank specified under sub-clauses (A) and (B) thereof, to search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept. Thus, the warrant of authorisation is person specific and states the places where search is required to be conducted qua such person. Such search may be at the office premises, residential premises or even at the premises of a third person, depending on where the competent authority has reason to suspect that books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept. The contention based on rule 112 of the Rules that search is location specific, therefore, does not merit acceptance. Rule 112 of the Rules provides that the powers of search and seizure under section 132 shall be exercised in accordance with sub- rules (2) to (14) thereof. Thus, rule 112 provides for the manner in which search is to be conducted. Sub-rule (2) provides for the forms in which authorisations are to be issued. On a bare reading of rule 112 as a whole, there is nothing therein to indicate that search is location specific as is sought to be contended on behalf of the petitioner.*

13. *Reference may also be made to the decision of the Delhi High Court in MDLR Resorts P. Ltd. v. CIT (supra), on which reliance has been placed by the learned advocate for the petitioner, wherein the court has held thus (page 416 of 361 ITR):*

> *"The contention with regard to their addresses being different, is misconceived and mere ipse dixit. Address of a company will normally mean its registered office, head office, etc. A person can operate from or keep documents, money, etc. at different places and not necessarily from*

the registered office, etc. or from where business is conducted. The address mentioned in the warrant and the panchanama need not be the registered office or the head office but it has be the place where the search was to be conducted and was conducted. The address at which search could be conducted would be the place or location, where books of account, documents, jewellery, unaccounted assets, etc., could be located/found.. ..

What is noticeable is that the mandate and language of section 153A(1) does not make any reference to panchanama or the date of panchanama. It does not state that the panchanama is a pre-condition for invoking the said section. The words used by the Legislature are 'search is initiated under section 132. . .'. The word 'initiate' means to commence or start. The section is invoked and applicable when the search is 'initiated'. In other words, the section ticks of and comes into play when the search commences or is undertaken against a person. The expression 'initiate' had come up for interpretation before the Karnataka High Court in CIT v. Wipro Finance Ltd. [2010] 323ITR 467 (Karn) in relation to sections 158BC, 158BD etc., and it was observed that as per the dictionary meaning, the said word refers to beginning, commencement or start of proceedings. Reference was made to the decision of the Supreme Court in Om Prakash Jaiswal v. G.K. Mittal, AIR 2000 SC 1136, wherein the expression 'initiate any proceedings for contempt' in section 20 of the Contempt of Courts Act, 1971, was interpreted. It was held that the word 'initiate' means introductory steps or action or first move. Black's Law Dictionary was referred to and it was observed that 'initiation of contempt proceedings' takes place when the court applies its mind to allegation and decides to direct the alleged contemnor under section 17 to show- cause as to why he should not be punished. Thereafter, reference was made to different factual situations. In Wipro Finance's case (supra), it was accordingly observed (page 485):

'It is the settled principle that while assigning meaning to any expression in any provision of a statute, the context under which the particular expression is used has to be borne in mind. Therefore, bearing in mind the context in which the expression 'search initiated' has been used under various sections of the Income-tax Act including ss. 158BA(1), 158BC, 158BD, 158BE(1)(a) and (b) and 253A(1)(a) and (b) and also in the light of examining the dictionary meaning of the word 'initiate' as extracted by the High Court of Rajasthan at para No. 34 of its judgment in the case of Rajasthan Udyog v. State of Rajasthan, AIR 1978 Raj 31 and also in the light of the

above observations of the hon'ble Supreme Court in the case of Omprakash Jaiswal (supra) we may safely assign to the expression 'search initiated'; the meaning 'search taken' or 'search commenced' or 'making beginning of the search'. If this is meant by expression 'search initiated' it cannot be held that the only signing of the authorizations by the Director of Income-tax, Bangalore, on December 30, 1996 to make a search in the premises of the respective assessees would amount to 'initiation of search'. The signing of the 'authorizations' would at best amount to 'taking of the decision by the said authority to initiate search' in the premises of respective assessees but not initiation of search itself."

14. *Thus, the court has held that the address mentioned in the warrant and the panchanama need not be the registered office or the head office but it has to be the place where the search was to be conducted and was conducted. The address at which search could be conducted would be the place or location, where books of account, documents, jewellery, unaccounted assets, etc., could be located/found.*

15. *A perusal of the record as produced by the petitioner shows that the panchanama drawn at the time of the search shows that the search was carried out at the house, but the name of the petitioner also finds place in the panchanama. The list of inventory of books of account etc. found/seized; list of inventory of jewellery etc. found/seized; inventory of cash found/seized; all bear the name of the petitioner along with the other persons in respect of whom warrant of authorisation was issued.*

16. *Evidently therefore, the search had been conducted in the case of the petitioner at the locations stated in the authorisation. This court is in complete agreement with the view taken the Delhi High Court in MDLR Resorts P. Ltd. v. CIT (supra), to the effect that the address at which search could be conducted would be the place or location, where books of account, documents, jewellery, unaccounted assets, etc. could be located/found and it need not be the registered office/head office of the person concerned. Under the circumstances, the contention that no proceedings under section 153A of the Act could have been initiated against the petitioner does not merit acceptance."*

18. The High Court of Delhi in ***MDLR Resorts (P) Ltd. v. CIT [2013 SCC OnLine Del 5174 / (2013) 40 taxmann.com 365]***, while examining the provisions of

Sections 153A and 132 of the Act, as well as the search warrant in Form No. 45, has critically analysed the issue as under:

> ***"11.*** *Names of parties to be subjected to search have been mentioned at two separate places on the first page of search warrants Form No. 45. The first point or place refers to pre-conditions mentioned in section 132(1)(a) and (b) and the second point or place refers to the pre-conditions stipulated in section 132(1)(c). Second page of the form requires mentioning the address where the suspected books of account, other documents, money, bullion, jewellery, valuable articles, etc., were kept, by the persons who were being subjected to search.*
>
> ***12.*** *In the panchanamas relating to MDLR Estate P. Ltd., MDLR Hotels P. Ltd. and Shivgori Builders P. Ltd., it was noticed that their names were not included in the names of the persons mentioned in the column relating to clauses (a) and (b) of section 132(1) of the Act. However, their names were mentioned in the column relating to section 132(1)(c) of the Act. In these circumstances, suspicion of the petitioners is not affirmed. It does not impel us to form and decide the contention in favour of the petitioners.*
>
> ***13.*** *The contention with regard to their addresses being different, is misconceived and mere ipse dixit. Address of a company will normally mean its registered office, head office, etc. A person can operate from or keep documents, money, etc., at different places and not necessarily from the registered office, etc., or from where business is conducted. The address mentioned in the warrant and the panchanama need not be the registered office or the head office but it has to be the place where the search was to be conducted and was conducted. The address at which search could be conducted would be the place or location, where books of account, documents, jewellery, unaccounted assets, etc., could be located/found."*

19. From the aforesaid judgments, the following principles emerge:

(i) The formation of "reason to believe" under Section 132(1) of the Act is required to be recorded in

respect of a person, as contemplated under clauses (a) to (c).

(ii) The competent authority must also have "reason to suspect" that the books of account, documents, money, bullion, jewellery, or other valuable articles or things are kept in any building, place, vessel, vehicle, or aircraft, and the authorization is issued for the purposes enumerated in clauses (i) to (v) of Section 132(1).

(iii) Where, in consequence of information in its possession, the competent authority has reason to believe that any of the conditions stipulated in clauses (a) to (c) of Section 132(1) are satisfied, it may authorize the designated officer to carry out search and seizure operations in terms of clauses (i) to (v).

(iv) The legislative scheme of Section 132 makes a clear distinction between the person in respect of whom satisfaction is recorded and the place where the search is to be conducted. The location of the

premises is incidental to, and consequent upon, the satisfaction recorded against the person.

(v) The warrant of authorization is person-specific. The name of the person reflected in the warrant of authorization is determinative of the "searched person".

(vi) A search under Section 132(1) of the Act is, therefore, person-centric, being founded on the "reason to believe" recorded against such person.

(vii) The expression in Section 153A, "where a search is initiated under Section 132 in the case of a person" refers to the person contemplated under clauses (a) to (c) of Section 132(1), against whom the satisfaction has been recorded.

(viii) The premises to be searched need not necessarily belong to the said person. The authorized officer may search any building, place, vessel, vehicle, or aircraft where there is reason to suspect that the specified materials are kept.

(ix) The place of search may include the residential premises, business premises, or even the premises of a third party, depending upon where the competent authority has reason to suspect that the relevant materials are located.

(x) Thus, the address mentioned in the warrant of authorization merely identifies the location where the search is to be carried out and does not determine the identity of the "searched person".

20. Learned counsel for the respondent has placed extensive reliance on the judgment of this Court in ***CIT v. Sunil Kumar Sharma (DB)*** *(supra)*, as well as the order of the learned Single Judge in the said case, to contend that the "searched person" is the person whose premises is subjected to search and from whom seizure is made.

21. Before examining the said contention, it is necessary to note the chronology of the decisions. The order of the learned Single Judge in ***Sunil Kumar Sharma***, WP No.9937/2022 and connected matters is dated 12.08.2022 and the judgment of the Division Bench is dated 22.01.2024. However, the earlier judgments of this Court dealing with the very same issue,

namely ***C. Ramaiah Reddy v. CIT*** *(supra)* dated 08.09.2010 and ***CIT v. Associated Mining Company*** *(supra)* dated 22.07.2019, precede the aforesaid decisions.

22. It is also pertinent to note that the judgments of other High Courts, including the High Court of Delhi, Rajasthan High Court, and High Court of Gujarat, on the same issue, were rendered much prior to both the decisions in ***Sunil Kumar Sharma***.

23. A perusal of the judgments in ***Sunil Kumar Sharma*** would indicate that the earlier binding precedents of this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company*** *(supra)*, as well as the judgments of the High Courts of Delhi, Rajasthan and Gujarat on the issue, were not considered therein.

24. This Court, in ***CIT v. Sunil Kumar Sharma (DB)*** *(supra)*, while considering the question as to the validity of the notice issued under Section 153C of the Act and after referring to the provisions of Section 153C of the Act, has held as under:

> ***"30.*** *……. Thus, it transpires that the essential conditions to invoke section 153C of the Income-tax Act, 1961 are:*
>
> *(i) There must exist primary person on whom search must be conducted.*

> *(ii) There must be discovery of documents found in the custody of the "searched person" relating to the "other person".*
>
> *(iii) Such documents found must be incriminating material to invoke proceedings against the "other person".*
>
> *As the title enunciates, "Assessment of income of any other person", no search is sine qua non for issuance of proceedings under section 153C of the Income-tax Act, 1961. The searched person in the instant case is the petitioner, as the search was conducted in his premises, which is evident from the panchanama. The distinction between "searched person" and "other person" is misinterpreted in the case advanced by the appellant-Revenue, as the premises of the respondent were searched and documents pertaining to him were seized, thereby making him the searched person.*
>
> *The stipulated conditions have not been satisfied in the instant case."*

25. The aforesaid conclusion has been arrived at primarily on the basis of the panchanama. In this context, the High Court of Delhi in ***MDLR Resorts (P) Ltd. v. CIT*** *(supra)*, while considering the judgment of this Court in ***CIT v. Wipro Finance Ltd. [(2010) 323 ITR 467 (Karn)]***, has held as under:

> ***"17.*** *What is noticeable is that the mandate and language of section 153A(1) does not make any reference to panchanama or the date of panchanama. It does not state that the panchanama is a pre-condition for invoking the said section. The words used by the Legislature are "search is initiated under section 132.*
>
> *"The word "initiate" means to commence or start. The section is invoked and applicable when the search is "initiated". In other words, the section ticks of and comes into play when the search commences or is undertaken against a person. The expression "initiate" had come up for interpretation before the Karnataka High Court in CIT v.*

Wipro Finance Ltd. (2010) 323 ITR 467 (Karn) in relation to sections 158BC, 158BD, etc., and it was observed that as per the dictionary meaning, the said word refers to beginning, commencement or start of proceedings. Reference was made to the decision of the Supreme Court in Om Prakash Jaiswal v. D.K. Mittal [2000] AIR 2000 SC 1136, wherein the expression "initiate any proceedings for contempt" in section 20 of the Contempt of Courts Act, 1971, was interpreted. It was held that the word "initiate" means introductory steps or action or first move. Black's Law Dictionary was referred to and it was observed that "initiation of contempt proceedings" takes place when the court applies its mind to allegation and decides to direct the alleged contemnor under section 17 to show cause as to why he should not be punished. Thereafter, reference was made to different factual situations. In Wipro Finance's case (supra), it was accordingly observed (page 485):

> *"It is the settled principle that while assigning meaning to any expression in any provision of a statute, the context under which the particular expression is used has to be borne in mind. Therefore, bearing in mind the context in which the expression 'search initiated' has been used under various sections of the Income-tax Act including sections 158BA(1), 158BC, 158BD, 158BE(1)(a) and (b) and 253A(1)(a) and (b) and also in the light of examining the dictionary meaning of the word 'initiate' as extracted by the High Court of Rajasthan at para. No. 34 of its judgment in the case of Rajasthan Udyog v. State of Rajasthan, AIR 1978 Raj 31 referred to and also in the light of the above observations of the hon'ble Supreme Court in the case of Omprakash Jaiswal (supra) we may safely assign to the expression 'search initiated'; the meaning 'search taken' or 'search commenced' or 'making beginning of the search'. If this is meant by expression 'search initiated' it cannot be held that the only signing of the authorisations by the Director of Income-tax, Bangalore, on December 30, 1996, to make a search in the premises of the respective assessees would amount to 'initiation of search'. The signing of the 'authorisations' would at best amount to 'taking of the decision by the said authority to initiate search' in the premises of respective assessees but not initiation of search itself."*

26. As held by the High Court of Delhi, Section 153A of the Act does not refer to the panchanama as a precondition for invoking the said provision. In the present case, a copy of the

panchanama has been placed before this Court in the compilation filed by the respondent. The relevant portion thereof reads as under:

PANCHANAMA

A) Warrant in the case of	:	Shri K. Narayan Raju Party No. CRM-1,
B) Warrant to search (Details & Ownership of the search)	:	Residence of Shri C.R. Rammohan Raju No.24 No.24, Lakshmi Niwas, 4th Cross Road, K.R. Layout, J.P. Nagar, 6th Phase, Bangalore.

26.1 Column 'A' of the panchanama refers to the warrant issued in the case of the person, wherein the name of Sri K. Narayan Raju is mentioned. Column 'B' pertains to the warrant to search (details and ownership of the premises searched), wherein the residential premises of the respondent is indicated. Column 'A' thus corresponds to the person referred to in clauses (a) to (c) of Section 132(1) of the Act, whereas Column 'B' relates to the place of search contemplated under clauses (i) to (v) thereof.

26.2 While adverting to Column 'B', Column 'A' cannot be disregarded. The determinative factor is the person against whom "reason to believe" has been recorded under clauses (a) to (c) of Section 132(1) of the Act.

26.3 As held by the High Court of Delhi in ***MDLR Resorts (P) Ltd. v. CIT*** *(supra)*, the panchanama is not a precondition for invoking Section 153A of the Act. In ***Sunil Kumar Sharma*** *(supra)*, this Court has proceeded on the basis that since the search was conducted in the premises of the assessee and documents pertaining to him were seized, it would render him as the "searched person", as reflected in the panchanama.

27. However, the said judgment does not advert to or consider the scheme of Sections 132 and 153A of the Act in their proper perspective. Further, the earlier binding precedents of this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company*** *(supra)* have not been considered. The view taken in ***Sunil Kumar Sharma*** *(supra)* being founded primarily on the panchanama, runs contrary to the principles laid down in the aforesaid judgments.

28. The view taken by this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company*** *(supra)* is fortified by the consistent line of reasoning adopted by other High Courts, including the High Court of Delhi in ***MDLR Resorts (P) Ltd*** *(supra)* and ***Shilpa Chowdhary*** *(supra)*, the Rajasthan

High Court in ***Smt. Umlesh Goel*** *(supra)* and the High Court of Gujarat in ***Zinzuwadia & Sons*** *(supra)*.

29. It is also pertinent to note that the judgment of the learned Single Judge in ***Sunil Kumar Sharma*** does not take into consideration the earlier Division Bench judgments of this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company*** *(supra)*, as well as the judgments of the High Courts of Delhi, Rajasthan and Gujarat, which were holding the field at the relevant point of time.

30. The Five-Judge Bench of the High Court of Madhya Pradesh, in ***Jabalpur Bus Operators Association v. State of M.P., [2002 SCC OnLine MP 631]***, has held as under:

> ***6.*** *Article 141 of the Constitution of India envisages that—*
>
> *"The law declared by the Supreme Court shall be binding on all Courts within the territory of India."*
>
> *Therefore, all Courts in India are bound to follow the decision of the Apex Court, exception being doctrine of 'per incuriam' and 'sub-silentio'. This article empowers the Apex Court to declare the law which becomes the law of the land which is essential for a proper administration of justice with the expectation that like cases should be decided alike. Every Court is bound to follow any case decided by a Court above it in the hierarchy and Court is bound by precedents. A case is regarded as a precedent when it furnishes rules which may be applied in settling the rights of the parties. The doctrine "Stare-decisis", commonly called "The doctrine of precedent" means adherence to decide cases on settled principles and not to disturb matters which have been established by judicial decisions. The precedent should serve as a rule for future guidance in deciding analogous cases (Words and Phrases, Permanent Edition Vol. 33 P. 372-373). It cannot be doubted*

that in the development of law, promotion of consistency and certainty in decisions on all the law is maintained and inconsistency avoided. However, perusal of various decisions demonstrates that the Apex Court and High Courts have been called upon to consider the question of binding precedents from time to time. Indisputable question is that the law declared by the Supreme Court shall be binding on all Courts within the territory of India. There seems no dispute to the proposition that decision of larger Bench of the Apex Court is binding on smaller Bench of the same Court and the High Courts. The difficulty arises in case of conflict between the two decisions by Benches consisting of same number of Judges, whether to follow the earlier or later and in absence of the Apex Court decision, similar difficulty may arise with regard to the High Court decisions. The normal rule is that in the absence of any decision of the Apex Court, subordinate Courts are bound to follow the decisions of High Court to which they are subordinate and where conflict is between the judgments of a single Bench and Division Bench, Division Bench decision will have to be followed and where there is conflict between Division Bench and larger Bench, the decision of larger Bench has to be followed. But where the conflict is between two decisions pronounced by Benches consisting of same number of Judges, difficulty arises which decision is to be followed when after careful examinations of the decisions, conclusion is that both of them directly apply to the case before the Court, High Courts have expressed different views, we have found, some taking the line that the Court will be at liberty to follow that decision which seems to it more correct irrespective of the fact it is earlier or later in point of time while others hold that the earlier decision should be followed.

30.1 The legal position governing precedential value has been succinctly summarized by the Bombay High Court in ***CIT v. Thana Electricity Supply Ltd. [1993 SCC OnLine Bom 591/(1994) 206 ITR 727(Bombay)]***, has held as under:

> ***"20.*** *From the foregoing discussion, the following propositions emerge:*
>
> *(a) The law declared by the Supreme Court being binding on all courts in India, the decisions of the Supreme Court are binding on all courts, except, however, the Supreme Court itself which is free to review the same and depart from its earlier opinion*

> *if the situation so warrants. What is binding is, of course, the ratio of the decision and not every expression found therein.*
>
> *(b) The decisions of the High Court are binding on the subordinate courts and authorities or Tribunals under its superintendence throughout the territories in relation to which it exercises jurisdiction. It does not extend beyond its territorial jurisdiction.*
>
> *(c) The position in regard to the binding nature of the decisions of a High Court on different Benches of the same court may be summed up as follows:*
>
> *(i) A single judge of a High Court is bound by the decision of another single judge or a Division Bench of the same High Court. It would be judicial impropriety to ignore that decision. Judicial comity demands that a binding decision to which his attention had been drawn should neither be ignored nor overlooked. If he does not find himself in agreement with the same, the proper procedure is to refer the binding decision and direct the papers to be placed before the Chief Justice to enable him to constitute a larger Bench to examine the question (see Food Corporation of India v. Yadav Engineer and Contractor, (1982) 2 SCC 499 : AIR 1982 SC 1302).*
>
> *(ii) A Division Bench of a High Court should follow the decision of another Division Bench of equal strength or a Full Bench of the same High Court. If one Division Bench differs from another Division Bench of the same High Court, it should refer the case to a larger Bench.*
>
> *(iii) **Where there are conflicting decisions of courts of co-ordinate jurisdiction, the later decision is to be preferred if reached after full consideration of the earlier decisions.** …….*
>
> *(Emphasis supplied)*

30.2 In view of the principles summarized above, where there are conflicting decisions of courts of coordinate jurisdiction, the

later decision is to be preferred only if it is rendered after due consideration of the earlier decisions.

31. In the present case, as noticed hereinabove, the Division Bench of this Court in ***Sunil Kumar Sharma*** *(supra)* has not considered or adverted to the earlier Division Bench judgments of this Court in ***C. Ramaiah Reddy*** and ***Associated Mining Company***, which had already dealt with the identical issue. In the absence of such consideration, the judgment in ***Sunil Kumar Sharma*** *(supra)* cannot be regarded as laying down the correct binding precedent on the issue.

32. The Hon'ble Supreme Court, in the following Judgments, while analysing the law relating to binding precedents, *ratio decidendi*, *per incuriam*, and *sub silentio*, has held as under;

(i) In ***CIT v. Sun Engineering Works (P) Ltd., [1992 SCC OnLine SC 287 / (1992) 198 ITR 297 (SC)]*** :

> ***"39.*** *…….. It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this Court, divorced from the context of the question under consideration and treat it to be the complete 'law' declared by this Court. The judgment must be read as a whole and the observations from the judgment have to be considered in the light of the questions which were before this Court. A decision of this Court takes its colour from the questions involved in the case in which it is rendered and while applying the decision to a later case, the courts must carefully try to ascertain the true principle laid down by the decision of this Court and not to pick out words or sentences from the judgment, divorced from the context of the questions under consideration by this*

Court, to support their reasonings. In Madhav Rao Scindia v. Union of India [(1971) 1 SCC 85 : (1971) 3 SCR 9] this Court cautioned:

> *"It is not proper to regard a word, a clause or a sentence occurring in a judgment of the Supreme Court, divorced from its context, as containing a full exposition of the law on a question when the question did not even fall to be answered in that judgment."*

(ii) In ***Bilkis Yakub Rasool v. Union of India***, *[**2024 SCC OnLine SC 25]* :

> ***"152.*** *In the earlier litigation of Synthetics & Chemicals [Synthetics & Chemicals Ltd. v. State of U.P., (1990) 1 SCC 109] , the question was whether the State Legislature could levy vend fee or excise duty on industrial alcohol. The seven-Judge Bench [Synthetics & Chemicals Ltd. v. State of U.P., (1990) 1 SCC 109] answered in the negative as industrial alcohol being unfit for human consumption, the State Legislature was incompetent to levy any duty of excise either under Entry 51 or Entry 8 of List II of Schedule VII. While doing so, the Bench recorded the above conclusion. It was not preceded by any discussion. No reason or rationale could be found in the judgment. Therefore, it was held by the two-Judge Bench [State of U.P. v. Synthetics & Chemicals Ltd., (1991) 4 SCC 139] that the same was per incuriam and was liable to be ignored in a subsequent matter between the same parties. The courts have taken recourse to this principle for relieving from injustice being perpetrated by unjust precedents. It was observed that uniformity and consistency are core of judicial discipline. But, if a decision proceeds contrary to the law declared, it cannot be a binding precedent. It was further observed that the seven-Judge Bench in Synthetics & Chemicals [Synthetics & Chemicals Ltd. v. State of U.P., (1990) 1 SCC 109] did not discuss the matter and had observed that the State cannot levy sales tax on industrial alcohol. In the subsequent matter which arose from the High Court between the same parties, it was held by this Court that the conclusion of law by the Constitution Bench that no sales or purchase tax could be levied on industrial alcohol was per incuriam and also covered by the rule of sub silentio and therefore, was not a binding authority or precedent.*
>
> ***153.*** *Thus, although it is the ratio decidendi which is a precedent and not the final order in the judgment, however, there are certain exceptions to the rule of precedents which are expressed by the doctrines of per incuriam and sub silentio. Incuria legally means carelessness and per incuriam may be equated with per ignoratium. If a judgment is*

rendered in ignoratium of a statute or a binding authority, it becomes a decision per incuriam. Thus, a decision rendered by ignorance of a previous binding decision of its own or of a court of coordinate or higher jurisdiction or in ignorance of the terms of a statute or of a rule having the force of law is per incuriam. Such a per incuriam decision would not have a precedential value. If a decision has been rendered per incuriam, it cannot be said that it lays down good law, even if it has not been expressly overruled vide Mukesh K. Tripathi v. LIC [Mukesh K. Tripathi v. LIC, (2004) 8 SCC 387 : 2004 SCC (L&S) 1128] , para 23. Thus, a decision per incuriam is not binding.

***154.** Another exception to the rule of precedents is the rule of sub silentio. A decision is passed sub silentio when the particular point of law in a decision is not perceived by the court or not present to its mind or is not consciously determined by the court and it does not form part of the ratio decidendi it is not binding vide Arnit Das (1) v. State of Bihar [Arnit Das (1) v. State of Bihar, (2000) 5 SCC 488 : 2000 SCC (Cri) 962] .”*

(iii) In ***Property Owners Association v. State of Maharashtra, [2024 SCC OnLine SC 3122]*** :

***“153.** Not every observation in a judgment of this Court is binding as precedent. Only the ratio decidendi or the propositions of law that were necessary to decide on the issues between the parties are binding. [Halsbury, 2nd Edn., Vol. 19, Para 556.] Observations by the Judge, even determinative statements of law, which are not part of her reasoning on a question or issue before the court, are termed obiter dicta. Such observations do not bind the court. More simply, a case is only an authority for what it actually decides.”*

(iv) In ***Union of India v. Dhanwanti Devi, [(1996) 6 SCC 44]*** :

***“9.** Before adverting to and considering whether solatium and interest would be payable under the Act, at the outset, we will dispose of the objection raised by Shri Vaidyanathan that Hari Krishan Khosla case [1993 Supp (2) SCC 149] is not a binding precedent nor does it operate as ratio decidendi to be followed as a precedent and is per se per incuriam. It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and*

isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates—(i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein. The enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution. A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in issue may constitute a precedent, no matter for what reason, and the precedent by long recognition may mature into rule of stare decisis. It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its ratio decidendi.

10. *Therefore, in order to understand and appreciate the binding force of a decision it is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. Law cannot afford to be static and therefore, Judges are to employ an intelligent technique in the use of precedents. It would, therefore, be necessary to see whether Hari Krishan Khosla case [1993 Supp (2) SCC 149] would form a binding precedent. Therein, admittedly the question that had arisen and was decided by the Bench of three Judges was whether solatium and interest are payable to an owner whose land was acquired under the provisions of the Central Act? On consideration of the facts, the relevant*

provisions in the Central Act and the previous precedents bearing on the topic, the Court had held that solatium and interest are not a part of compensation. It is a facet of the principle in the statute. The Central Act omitted to provide for payment of solatium and interest since preceding the acquisition the property was under requisition during which period compensation was paid to the owner. The position obtained and enjoyed by the Government during the period of requisition continued after acquisition. The same principle was applied without further elaboration on entitlement to payment of interest of an owner. It is true that the decisions relied on by Shri Vaidyanathan on the principle of payment of interest as part of compensation in respect of land acquired were brought to the attention of this Court for discussion. What would be its purport would be considered a little later. Suffice it to say for the present that the finding that solatium and interest are not payable for the lands acquired under the Central Act as part of compensation is a binding precedent. Obviously, therefore, this Court followed the ratio therein in Distt. Judge case [(1994) 4 SCC 737 : JT (1994) 3 SC 629]. The contention, therefore, that Hari Krishan Khosla case [1993 Supp (2) SCC 149] cannot be treated as a binding precedent since therein there is no ratio but a conclusion without discussion, is not tenable and devoid of force. In that view, it is not necessary to discuss in extenso the effect of the decisions cited by Shri Vaidyanathan. Equally, the contention of Shri Vaidyanathan that the ratio in Hari Krishan Khosla case [1993 Supp (2) SCC 149] is in conflict with the ratio in Satinder Singh case [(1961) 3 SCR 676 : AIR 1961 SC 908] which was neither distinguished nor overruled and that the decision of a coordinate Bench cannot have the effect of overruling decision of another coordinate Bench, cannot be given countenance. The effect of the ratio in Satinder Singh case [(1961) 3 SCR 676 : AIR 1961 SC 908] will be considered a little later; suffice it to state that there is no conflict in the ratio of these two cases if the facts in Satinder Singh case [(1961) 3 SCR 676 : AIR 1961 SC 908] are closely analysed and the principle laid down therein is understood in its proper perspective. Therefore, Hari Krishan Khosla case [1993 Supp (2) SCC 149] cannot be held to be per incuriam nor has it the effect of overruling the ratio decidendi of Satinder Singh case [(1961) 3 SCR 676 : AIR 1961 SC 908] ."

(v) In ***MCD v. Gurnam Kaur, [1988 SCC OnLine SC 259]***:

> ***"11.*** *Pronouncements of law, which are not part of the ratio decidendi are classed as obiter dicta and are not authoritative. With all respect to the learned Judge who*

passed the order in Jamna Das case [Writ Petitions Nos. 981-82 of 1984] and to the learned Judge who agreed with him, we cannot concede that this Court is bound to follow it. It was delivered without argument, without reference to the relevant provisions of the Act conferring express power on the Municipal Corporation to direct removal of encroachments from any public place like pavements or public streets, and without any citation of authority. Accordingly, we do not propose to uphold the decision of the High Court because, it seems to us that it is wrong in principle and cannot be justified by the terms of the relevant provisions. A decision should be treated as given per incuriam when it is given in ignorance of the terms of a statute or of a rule having the force of a statute. So far as the order shows, no argument was addressed to the court on the question whether or not any direction could properly be made compelling the Municipal Corporation to construct a stall at the pitching site of a pavement squatter. Professor P.J. Fitzgerald, editor of the Salmond on Jurisprudence, 12th Edn. explains the concept of sub silentio at p. 153 in these words:

> *A decision passes sub silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind. The court may consciously decide in favour of one party because of point A, which it considers and pronounces upon. It may be shown, however, that logically the court should not have decided in favour of the particular party unless it also decided point B in his favour; but point B was not argued or considered by the court. In such circumstances, although point B was logically involved in the facts and although the case had a specific outcome, the decision is not an authority on point B. Point B is said to pass sub silentio.*

12. *In Gerard v. Worth of Paris Ltd. (k). [(1936) 2 All ER 905 (CA)] , the only point argued was on the question of priority of the claimant's debt, and, on this argument being heard, the court granted the order. No consideration was given to the question whether a garnishee order could properly be made on an account standing in the name of the liquidator. When, therefore, this very point was argued in a subsequent case before the Court of Appeal in Lancaster Motor Co. (London) Ltd. v. Bremith Ltd. [(1941) 1 KB 675] , the court held itself not bound by its previous decision. Sir Wilfrid Greene, M.R., said that he could not help thinking that the point now raised had been deliberately passed sub silentio by counsel in order that the point of substance might be decided. He went on to say that the point had to be*

decided by the earlier court before it could make the order which it did; nevertheless, since it was decided "without argument, without reference to the crucial words of the rule, and without any citation of authority", it was not binding and would not be followed. Precedents sub silentio and without argument are of no moment. This rule has ever since been followed. One of the chief reasons for the doctrine of precedent is that a matter that has once been fully argued and decided should not be allowed to be reopened. The weight accorded to dicta varies with the type of dictum. Mere casual expressions carry no weight at all. Not every passing expression of a judge, however eminent, can be treated as an ex cathedra statement, having the weight of authority."

(vi) In ***Secunderabad Club v. CIT***, *[**2023 SCC OnLine SC 1004/ (2023) 457 ITR 263**]*:

"65. Reliance could also be placed on the dissenting judgment of A.P. Sen, J. in Dalbir Singh v. State of Punjab [Dalbir Singh v. State of Punjab, (1979) 3 SCC 745 : 1979 SCC (Cri) 848] , wherein his Lordship observed that a decision on a question of sentence depending upon the facts and circumstances of a particular case, can never be regarded as a binding precedent, much less "law declared" within the meaning of Article 141 of the Constitution so as to bind all courts within the territory of India. According to the well-settled theory of precedents, every decision contains three basic ingredients:

(i) findings of material facts, direct and inferential. An nferential finding of fact is the inference which the Judge draws from the direct or perceptible facts;
(ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and
(iii) judgment based on the combined effect of (i) and (ii) above.

For the purposes of the parties themselves and their privies, ingredient (iii) is the material element in the decision, for, it determines finally their rights and liabilities in relation to the subject-matter of the action. It is the judgment that estops the parties from reopening the dispute. However, for the purpose of the doctrine of precedent, ingredient (ii) is the vital element in the decision. This is the ratio decidendi. It is not everything said by a Judge when giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi."

> ***"69.*** *The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to individuals as to the consequences of transactions forming part of daily affairs. Thus, what is binding in terms of Article 141 of the Constitution is the ratio of the judgment and as already noted, the ratio decidendi of a judgment is the reason assigned in support of the conclusion. The reasoning of a judgment can be discerned only upon reading of a judgment in its entirety and the same has to be culled out thereafter. The ratio of the case has to be deduced from the facts involved in the case and the particular provision(s) of law which the court has applied or interpreted and the decision has to be read in the context of the particular statutory provisions involved in the matter. Thus, an order made merely to dispose of the case cannot have the value or effect of a binding precedent.*
>
> ***70.*** *What is binding, therefore, is the principle underlying a decision which must be discerned in the context of the question(s) involved in that case from which the decision takes its colour. In a subsequent case, a decision cannot be relied upon in support of a proposition that it did not decide. Therefore, the context or the question, while considering which, a judgment has been rendered assumes significance.*
>
> ***71.*** *As against the ratio decidendi of a judgment, an obiter dictum is an observation by a court on a legal question which may not be necessary for the decision pronounced by the court. However, the obiter dictum of the Supreme Court is binding under Article 141 to the extent of the observations on points raised and decided by the Court in a case. Although the obiter dictum of the Supreme Court is binding on all courts, it has only persuasive authority as far as the Supreme Court itself is concerned."*

(vii) In ***Haryana Financial Corpn. v. Jagdamba Oil Mills,***

2002 SCC OnLine SC 140 :

> ***"19.*** *Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are not to be read as Euclid's theorems nor as provisions of the statute. These observations must be read in the context in which they appear. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark upon lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They*

interpret words of statutes, their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL)] (at p. 761) Lord MacDermot observed : (All ER p. 14C-D)

> *"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge."*

***21.** Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper."*

33. If the binding nature of the judgment of this Court in ***Sunil Kumar Sharma*** *(supra)*, rendered by a Division Bench, is examined in the context of the earlier decisions on the very same issue in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company Ltd.*** *(supra)*, the principle of *per incuriam* would aptly apply. The said decision has been rendered without consideration of the statutory provisions of Section 132, 153A, 153C and the aforesaid judgments of this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company Ltd.*** *(supra)*.

34. Further, the judgment in ***Sunil Kumar Sharma*** *(supra)* has not considered two judgments of the High Court of Delhi and one judgment each of the High Courts of Gujarat and

Rajasthan, wherein the identical issue has been decided, laying down principles consistent with those enunciated in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company Ltd.*** *(supra)*. All the aforesaid judgments were rendered much prior even to the order of the learned Single Judge in ***Sunil Kumar Sharma (supra)***.

35. In the light of the principles laid down by the Hon'ble Supreme Court in ***Bilkis Yakub Rasool*** *(supra)* and other judgments referred *(supra)*, we are inclined to follow the earlier judgments of this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company Ltd.*** *(supra)*, wherein the provisions of Section 132 have been analysed in detail and the judgments of other High Courts on the same issue have also been duly considered.

36. In that view of the matter, we deem it appropriate to follow the principles laid down by the earlier Division Benches of this Court in ***C. Ramaiah Reddy*** *(supra)* and ***Associated Mining Company*** *(supra)*.

37. Learned counsel for the respondent, however, contended that the Special Leave Petition preferred by the Revenue against the judgment of the Division Bench in ***Sunil Kumar***

Sharma *(supra)* has been dismissed by the Hon'ble Supreme Court, and that the review petition filed thereafter has also been rejected. In support of the said contention, reliance is placed on the orders passed by the Hon'ble Supreme Court dismissing the Special Leave Petition as well as the review petition. The Hon'ble Supreme Court, while dismissing the Special Leave Petition, has observed as under:

> *"We are not inclined to interfere with the impugned judgment passed by the High Court. Hence, the special leave petitions are dismissed."*

38. The Hon'ble Supreme Court in ***Kunhayammed v. State of Kerala [*2000 SCC OnLine SC 1008*]*** has held that dismissal of a Special Leave Petition without assigning reasons does not amount to affirmation of the judgment impugned therein. It is also well settled that where an SLP is dismissed without a speaking order, the doctrine of merger does not apply. The Hon'ble Supreme Court, in paragraphs 25, 26 and 27, has held as under:

> *"Dismissal of SLP by speaking or reasoned order — no merger but rule of discipline and Article 141 attracted*
>
> ***25.*** *The efficacy of an order disposing of a special leave petition under Article 136 of the Constitution came up for the consideration of the Constitution Bench in Penu Balakrishna Iyer v. Ariya M. Ramaswami Iyer [AIR 1965 SC 195 : (1964) 7 SCR 49] in the context of revocation of a special leave once granted. This Court held that in a given case if the respondent*

brings to the notice of the Supreme Court facts which would justify the Court in revoking the leave earlier granted by it, the Supreme Court would in the interest of justice not hesitate to adopt that course. It was therefore held that no general rules could be laid down governing the exercise of wide powers conferred on this Court under Article 136; whether the jurisdiction of this Court under Article 136 should be exercised or not and if used, on what terms and conditions, is a matter depending on the facts of each case. If at the stage when special leave is granted the respondent-caveator appears and resists the grant of special leave and the ground urged in support of resisting the grant of special leave is rejected on merits resulting in grant of special leave then it would not be open to the respondent to raise the same point over again at the time of the final hearing of the appeal. However, if the respondent-caveator does not appear, or having appeared, does not raise a point, or even if he raised a point and the Court does not decide it before grant of special leave, the same point can be raised at the time of final hearing. There would be no technical bar of res judicata. The Constitution Bench thus makes it clear that the order disposing of a special leave petition has finality of a limited nature extending only to the points expressly decided by it.

26. *The underlying logic attaching efficacy to an order of the Supreme Court dismissing SLP after hearing counsel for the parties is discernible from a recent three-Judge Bench decision of this Court in Abbai Maligai Partnership Firm v. K. Santhakumaran [(1998) 7 SCC 386] . In the matter of eviction proceeding initiated before the Rent Controller, the order passed therein was subjected to appeal and then revision before the High Court. Special leave petitions were preferred before the Supreme Court where the respondents were present on caveat. Both the sides were heard through the Senior Advocates representing them. The special leave petitions were dismissed. The High Court thereafter entertained review petitions which were highly belated and having condoned the delay reversed the orders made earlier in civil revision petitions. The orders in review were challenged by filing appeals under leave granted on special leave petitions. This Court observed that what was done by the learned Single Judge was "subversive of judicial discipline". The facts and circumstances of the case persuaded this Court to form an opinion that the tenants were indulging in vexatious litigations, abusing the process of the Court by approaching the High Court and the very entertainment of review petitions (after condoning a long delay of 221 days) and then reversing the earlier orders was an affront to the order of this Court. However the learned Judges deciding the case have nowhere in the course of their judgment relied on doctrine of merger for taking the view they have done. A*

careful reading of this decision brings out the correct statement of law and fortifies us in taking the view as under.

27. *A petition for leave to appeal to this Court may be dismissed by a non-speaking order or by a speaking order. Whatever be the phraseology employed in the order of dismissal, if it is a non-speaking order, i.e., it does not assign reasons for dismissing the special leave petition, it would neither attract the doctrine of merger so as to stand substituted in place of the order put in issue before it nor would it be a declaration of law by the Supreme Court under Article 141 of the Constitution for there is no law which has been declared. If the order of dismissal be supported by reasons then also the doctrine of merger would not be attracted because the jurisdiction exercised was not an appellate jurisdiction but merely a discretionary jurisdiction refusing to grant leave to appeal. We have already dealt with this aspect earlier. Still the reasons stated by the Court would attract applicability of Article 141 of the Constitution if there is a law declared by the Supreme Court which obviously would be binding on all the courts and tribunals in India and certainly the parties thereto. The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the Apex Court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the one expressed by this Court. The order of Supreme Court would mean that it has declared the law and in that light the case was considered not fit for grant of leave. The declaration of law will be governed by Article 141 but still, the case not being one where leave was granted, the doctrine of merger does not apply. The Court sometimes leaves the question of law open. Or it sometimes briefly lays down the principle, may be, contrary to the one laid down by the High Court and yet would dismiss the special leave petition. The reasons given are intended for purposes of Article 141. This is so done because in the event of merely dismissing the special leave petition, it is likely that an argument could be advanced in the High Court that the Supreme Court has to be understood as not to have differed in law with the High Court."*

38.1 In that view of the matter, we are unable to accept the contention urged on behalf of the respondent that the dismissal of the Special Leave Petition filed by the Revenue amounts to

affirmation of the judgment of the Division Bench of this Court in ***Sunil Kumar Sharma*** *(supra)*.

39. Learned counsel for the respondent has raised an additional contention with regard to the validity of the satisfaction note recorded under Section 153C of the Act. It is contended that a separate satisfaction note is required to be recorded for each assessment year, and that a consolidated satisfaction note would vitiate the entire assessment proceedings. This issue has not been addressed by the learned Single Judge. In view of the said contention being urged before us, we deem it appropriate to examine the same. Section 153C(1) of the Act reads as under:

> ***Assessment of income of any other person.***
> ***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 [2][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 :*

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 [3][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.*

40. Section 153C was introduced into the statute by the Finance Act, 2003. Prior to its insertion, the corresponding provision governing such cases was Section 158BD of the Act, which is *pari materia* to Section 153C. The said provision reads as under:

Undisclosed income of any other person.

158BD. *Where the Assessing Officer is satisfied that any undisclosed income belongs to any person, other than the person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, the books of account, other 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 under section 158BC against such other person and the provisions of this Chapter shall apply accordingly.*

41. Before adverting to the submissions made by the learned counsel for the respondent, it is both relevant and appropriate to notice the legal position as declared by the Hon'ble Supreme Court and this Court.

42. The Central Board of Direct Taxes, in Circular No. 24 of 2015 dated 31.12.2015, has clarified that the interpretation placed by the Hon'ble Supreme Court in ***CIT v. Calcutta Knitwears [2014 SCC OnLine SC 227 / (2014) 362 ITR 673]***, while construing Section 158BD of the Act, would equally apply to proceedings under Section 153C of the Act, the said provisions being substantially similar and *pari materia*.

43. The Hon'ble Supreme Court in ***CIT v. Calcutta Knitwears*** *(supra)*, upon an elaborate and detailed analysis of the provisions contained in Chapter XIV-B of the Act, has laid down the conditions precedent for invoking Section 158BD of the Act, as under:

> ***"35.*** *Having said that, let us revert to the discussion of Section 158-BD of the Act. The said provision is a machinery provision and inserted in the statute book for the purpose of carrying out assessments of a person other than the searched person under Sections 132 or 132-A of the Act. Under Section 158-BD of the Act, if an officer is satisfied that there exists any undisclosed income which may belong to any other person other than the searched person under Sections 132 or 132-A of the Act, after recording such satisfaction, may transmit the records/documents/chits/papers, etc. to the assessing officer having jurisdiction over such other person. After receipt of the aforesaid satisfaction and upon*

examination of the said other documents relating to such other person, the jurisdictional assessing officer may proceed to issue a notice for the purpose of completion of the assessments under Section 158-BD of the Act, the other provisions of Chapter XIV-B shall apply.

36. *The opening words of Section 158-BD of the Act are that the assessing officer must be satisfied that "undisclosed income" belongs to any other person other than the person with respect to whom a search was made under Section 132 of the Act or a requisition of books was made under Section 132-A of the Act and thereafter, transmit the records for assessment of such other person. Therefore, the short question that falls for our consideration and decision is at what stage of the proceedings should the satisfaction note be prepared by the assessing officer: whether at the time of initiating proceedings under Section 158-BC for the completion of the assessments of the searched person under Sections 132 and 132-A of the Act or during the course of the assessment proceedings under Section 158-BC of the Act or after completion of the proceedings under Section 158-BC of the Act.*

37. *The Tribunal and the High Court are of the opinion that it could only be prepared by the assessing officer during the course of the assessment proceedings under Section 158-BC of the Act and not after the completion of the said proceedings. The courts below have relied upon the limitation period provided in Section 158-BE(2)(b) of the Act in respect of the assessment proceedings initiated under Section 158-BD i.e. two years from the end of the month in which the notice under Chapter XIV-B was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after 1-1-1997. We would examine whether the Tribunal or the High Court are justified in coming to the aforesaid conclusion.*

38. *We would certainly say that before initiating proceedings under Section 158-BD of the Act, the assessing officer who has initiated proceedings for completion of the assessments under Section 158-BC of the Act should be satisfied that there is an undisclosed income which has been traced out when a person was searched under Section 132 or the books of accounts were requisitioned under Section 132-A of the Act. This is in contrast to the provisions of Section 148 of the Act where recording of reasons in writing are a sine qua non. Under Section 158-BD the existence of cogent and demonstrative material is germane to the assessing officers' satisfaction in concluding that the seized documents belong to a person other than the searched person is necessary for initiation of action under Section 158-BD. The bare reading of the provision indicates that the satisfaction note could be*

prepared by the assessing officer either at the time of initiating proceedings for completion of assessment of a searched person under Section 158-BC of the Act or during the stage of the assessment proceedings. It does not mean that after completion of the assessment, the assessing officer cannot prepare the satisfaction note to the effect that there exists income tax belonging to any person other than the searched person in respect of whom a search was made under Section 132 or requisition of books of accounts was made under Section 132-A of the Act. The language of the provision is clear and unambiguous. The legislature has not imposed any embargo on the assessing officer in respect of the stage of proceedings during which the satisfaction is to be reached and recorded in respect of the person other than the searched person."

44. A similar issue concerning the interpretation of Section 153C of the Act came up for consideration before the Hon'ble Supreme Court in ***Super Malls (P) Ltd. v. CIT [2020 SCC OnLine SC 306]***. Applying the principles laid down in ***Calcutta Knitwears*** *(supra)*, it has been held as under:

"7. *This Court had an occasion to consider the scheme of Section 153-C of the Act and the conditions precedent to be fulfilled/complied with before issuing notice under Section 153-C of the Act in Calcutta Knitwears [CIT v. Calcutta Knitwears, (2014) 6 SCC 444] as well as by the Delhi High Court in Pepsi Food (P) Ltd. [Pepsi Food (P) Ltd. v. CIT, 2014 SCC OnLine Del 4029 : (2014) 367 ITR 112] As held, before issuing notice under Section 153-C 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 158-BD of the Act and the other provisions of Chapter XIV-B shall apply.*

7.1. *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 Ganpati Fincap [Ganpati Fincap Service (P) Ltd. v. CIT, 2017 SCC OnLine Del 8666 : (2017) 395 ITR 692] , 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 153-C 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 153-C 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.

45. Similarly, Section 153C of the Act came up for consideration before a Division Bench of this Court in

Commissioner of Income Tax v. IBC Knowledge Park Pvt. Ltd, [2016 SCC Online Kar 6036 / (2016) 385 ITR 346 (Karnataka)]. This Court, after noting that Section 153C is *pari materia* with Section 158BD of the Act, has held as under:

> ***"50.*** *xxxxx*
>
> *Section 153C is in pari materia with section 158BD conferring jurisdiction over third parties to a search providing certain conditions before the Assessing Officer having jurisdiction over a third party can assume jurisdiction. Materials such as books of account, documents or valuable assets found during a search should belong to a third party which would lead to an inference of undisclosed income of such third party. Such an inference should be recorded by the Assessing Officer having jurisdiction over the searched persons and communicated to the Assessing Officer having jurisdiction over such third party along with the seized documents and other incriminating materials on the basis of which the Assessing Officer having jurisdiction over such third party would issue notice under section 153C. On receipt of the aforesaid material, the Assessing Officer having jurisdiction over such third party would proceed against the said third party. Thus, where no material belonging to a third party is found during a search, but only an inference of an undisclosed income is drawn during the course of enquiry, during search or during post-search enquiry, section 153C would have no application. Thus, the detection of incriminating material leading to an inference of undisclosed income is a sine qua non for invocation of section 153C of the Act."*

46. The principle that emerges from the aforesaid judgments is that, prior to issuance of notice under Section 153C of the Act, the Assessing Officer of the searched person must be satisfied that, inter alia, the documents or assets seized or requisitioned belong to a person other than the searched person.

47. Upon recording such satisfaction, the Assessing Officer of the searched person is required to transmit the relevant records, documents, or assets to the Assessing Officer having jurisdiction over such other person. Upon receipt of the said material and the satisfaction note, the jurisdictional Assessing Officer of such other person, after due examination, may proceed to issue notice and initiate assessment proceedings in accordance with Section 153C of the Act, and the other applicable provisions.

48. The Hon'ble Supreme Court has contemplated two distinct situations. The first is where the Assessing Officer of the searched person is different from the Assessing Officer of the "other person". The second is where the Assessing Officer of both the "searched person" and the "other person" is one and the same.

49. In a case where the Assessing Officer of the "searched person" and that of the "other person" is the same, it has been held to be sufficient if the Assessing Officer records, in the satisfaction note, that the documents seized from the searched person belong to the "other person". Once such satisfaction is recorded, the requirement of Section 153C of the Act stands

fulfilled. Section 153C of the Act does not mandate that satisfaction be recorded with reference to a specific assessment year.

50. In such a situation, a single satisfaction note would suffice, as the Assessing Officer is common to both the searched person and the "other person". However, it is imperative that the Assessing Officer consciously arrives at, and records, satisfaction that the documents seized or requisitioned from the searched person indeed belong to the "other person".

51. In such cases, the requirement of transmitting the seized material from one Assessing Officer to another would not arise, since the same officer exercises jurisdiction over both the searched person and the "other person". Consequently, there would be no question of the Assessing Officer transmitting the seized material to himself.

52. From the principles laid down in the aforesaid judgments, it is evident that there is no requirement under Section 153C of the Act to record a separate satisfaction note for each assessment year.

53. The Hon'ble Supreme Court in ***Calcutta Knitwears*** *(supra)*, upon referring to earlier precedents, has held that a taxing statute must be construed strictly, having regard to the language employed therein. Nothing can be read into the provision, nor can anything be implied. At the same time, while interpreting machinery provisions, the Court must adopt a construction that effectuates the object of the statute and makes the provision workable.

54. The conclusion reached in ***Sunil Kumar Sharma*** *(supra)* is thus contrary to the law declared by the Hon'ble Supreme Court in the aforesaid decisions and without considering the earlier decision of the Division Bench in ***IBC Knowledge Park (P) Ltd.*** *(supra)*. Consequently, the contention that a separate satisfaction note is required to be recorded for each assessment year is unsustainable.

55. In the present case, the satisfaction note, produced as Annexure-B, upon perusal, is found to be in conformity with the requirements of Section 153C of the Act. The satisfaction has been duly recorded by the Assessing Officer of the searched person. It is also not in dispute that the notice under Section 153C of the Act, in respect of the respondent, being the "other person", has been issued by the very same Assessing Officer.

56. In such circumstances, having regard to the principles laid down by the Hon'ble Supreme Court in ***Super Malls (P) Ltd.*** *(supra)*, there is no requirement of recording a separate or additional satisfaction by the Assessing Officer of the "other person".

57. The consolidated satisfaction note recorded, as well as the notices issued under Section 153C of the Act for the assessment years 2012–13 to 2017–18, are in compliance with the statutory requirements and are in consonance with the law laid down by the Hon'ble Supreme Court in ***Calcutta Knitwears*** *(supra)* and ***Super Malls (P) Ltd.*** *(supra)*, as well as the judgment of this Court in ***IBC Knowledge Park (P) Ltd*** *(supra).*

58. The judgment in ***Sunil Kumar Sharma*** *(supra)*, rendered by a Coordinate Bench of this Court, does not advance the case of the respondent.

59. The *bona fides* of the respondent in filing the writ petition also merit consideration. The respondent has filed the writ petition seeking to quash the notices under Section 153C issued for the assessment years 2011–12 and 2018–19, both

dated 07.11.2019. The other impugned notices, relating to the assessment years 2012–13, 2013–14, 2014–15, 2015–16, 2016–17, and 2017–18, are dated 30.03.2019. The statement of objections filed by the Revenue in the writ proceedings discloses that multiple notices under Section 142(1) of the Act were issued between 19.11.2019 and 01.11.2024, in all eight notices, none of which were complied with by the respondent–assessee.

60. It is also brought on record that the assessments were required to be completed on or before 31.12.2024, whereas the writ petition came to be filed on 26.11.2024. Thus, the writ petition has been instituted after a lapse of more than four and a half years from the date of issuance of the impugned notices, and barely a month prior to the expiry of the time limit for completion of the assessment.

61. No doubt, there is no prescribed period of limitation for invoking the writ jurisdiction of this Court. However, such jurisdiction cannot be invoked at the whims of the litigant. The remedy must be exercised within a reasonable time. A delay of more than four years, in the facts of the present case, cannot be regarded as reasonable.

62. The Hon'ble Supreme Court in ***Mrinmoy Maity v. Chhanda Koley [2024 SCC OnLine SC 551]*** has held as under:

> ***"9.*** *Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that the writ petitioner ought to have been non-suited or in other words the writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*
>
> ***10.*** *The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straitjacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.*
>
> ***11.*** *For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, inasmuch as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising*

> *discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court."*

63. Applying the aforesaid principles, we are of the considered view that the writ petition was filed after an inordinate and unexplained delay and was, therefore, liable to be dismissed on the ground of *laches*. Tested on the touchstone of the principles laid down by the Hon'ble Supreme Court in the judgment referred to above, the learned Single Judge has erred in entertaining the writ petition despite such delay.

64. Learned counsel for the respondent has placed reliance on two compilations of judgments, comprising 14 judgments in Compilation No.1 and 22 judgments in Compilation No.2. We shall advert to the judgments which have been specifically relied upon.

64.1 Reliance is placed on the order of the Income Tax Appellate Tribunal in ***St. Ann's Education Society, Bangalore v. DCIT (Exemption)*** in ***ITA No. 165/Bang/2002 and connected matters*** dated 04.04.2006, to contend that a search is premises-specific. The said order was carried in appeal before this Court in ITA No. 1254 of 2006. This Court dismissed the appeal on the ground that the assessment was barred by limitation. No principle of law

relevant to the issue arising in the present case has been laid down therein. Accordingly, the said decision does not advance the case of the respondent.

64.2 Reliance is also placed on the judgment of the Hon'ble Supreme Court in ***CIT v. Jasjit Singh [(2023) 19 SCC 427]***. The said judgment, while interpreting Section 153C of the Act, deals with the question relating to the computation of the period of six assessment years in the light of the second proviso to Section 153C of the Act. The said issue does not arise for consideration in the present case. Hence, the reliance placed on the said judgment is misplaced.

64.3 Learned counsel has further relied on the judgment of the Hon'ble Supreme Court in ***CIT v. Tara Agencies [(2007) 292 ITR 444]***, to contend that the intention of the legislature must be gathered from the language employed in the statute, giving due regard to what has been stated as well as what has not been stated. There is no dispute with regard to the said principle. The same has already been duly considered in the earlier part of this judgment.

64.4 Reliance is placed on the order of the learned Single Judge in ***W.P. No. 11459 of 2021*** dated 04.12.2024 in the

case of ***M/s Davanam Constructions (P) Ltd. v. DCIT***, wherein the judgment in ***Sunil Kumar Sharma*** *(supra)* has been followed. It is submitted that the Revenue has preferred a writ appeal against the said order, which is presently pending consideration before the Division Bench. In view of the findings recorded by us hereinabove, the said judgment does not have any bearing on the present case.

64.5 Similarly, reliance is placed on the order passed in ***Review Petition No. 218 of 2024*** in ***Sunil Kumar Sharma*** *(supra)*, whereby the review sought by the Revenue came to be rejected. The said order also does not advance the case of the respondent.

64.6 Reliance is further placed on the judgment of the Calcutta High Court in ***Century Spinning & Manufacturing Co. Ltd. v. State of West Bengal [(1989) 73 STC 277]***, to contend that the High Court cannot explain or interpret a judgment of the Hon'ble Supreme Court. There is no dispute with regard to the said proposition.

64.7 Learned counsel has also relied upon the judgment of the Gujarat High Court in ***CIT v. Vallabhdas Vithaldas [(2002) 253 ITR 543]***, to contend that the law declared by the Hon'ble

Supreme Court is binding under Article 141 of the Constitution of India. The said proposition is well settled and requires no further elaboration.

64.8 Reliance is also placed on the judgment of the Hon'ble Supreme Court in ***Suganthi Suresh Kumar v. Jagdeeshan [(2002) 2 SCC 420]***, to contend that it is not permissible for the High Court to disregard or overrule a decision of the Apex Court, even on the ground that certain aspects were not considered therein. There is no quarrel with the said proposition.

64.9 Reference is also made to the judgment of this Court in ***CIT v. Jagadish Jakati & Co. [(1979) 119 ITR 19]***, as well as the judgment of the Hon'ble Supreme Court in ***CIT v. Shaan Finance (P) Ltd. [(1998) 97 Taxman 435 (SC)]***. However, the said judgments are not relevant to the issue arising in the present case.

64.10 Reliance on the judgment of the Madras High Court in ***CIT v. TVS Lean Logistics Ltd. [(2007) 293 ITR 432]***, and that of the Calcutta High Court in ***CESC Ltd. v. CIT [(2003) 263 ITR 402]***, on the principle of literal interpretation of statutes, does not require further

consideration in view of the findings already recorded hereinabove.

64.11 Similarly, reliance placed on the judgment of the Gujarat High Court in ***CIT v. Saumya Construction (P) Ltd. [(2016) 387 ITR 529]*** does not warrant elaboration in light of the conclusions already reached.

64.12 The judgment of the Hon'ble Supreme Court in ***CIT v. Abhisar Buildwell (P) Ltd. [(2023) 454 ITR 212 (SC)]***, which deals with the scope of income that can be assessed under Section 153A of the Act, is not relevant to the controversy in the present case.

64.13 Further reliance is placed on the judgment of the Gujarat High Court in ***Paras Chandreshbhai Koticha v. ITO [(2026) 485 ITR 628]***, to contend that the respondent ought to be treated as a "searched person". The said judgment, however, deals with the validity of reopening of assessment under Section 148 of the Act based on material found during search, and the question whether proceedings ought to be initiated under Section 148 or under Sections 153A/153C. The said issue does not arise for consideration in the present case and, therefore, the reliance placed thereon is misplaced.

65. The learned Single Judge, while quashing the notice issued under Section 153C of the Act, has held as under:

> *"As stated supra, in the instant case, the petitioner was the Chairman and Managing Director of M/s. Kalyani Group which was searched and in the light of the undisputed fact that the premises of the petitioner was searched and documents seized form him, by recording his statement, the sole / unmistakable conclusion / inference that can be arrived at from the material on record is that the petitioner was a searched person and not a non-searched person / such other person as contemplated under Section 153C of the I.T. Act and consequently, Section 153C would neither be applicable no invocable as against the petitioner, who was a searched person to whom this provision would not apply and the impugned notice being illegal, arbitrary and without jurisdiction or authority of law and all further proceedings pursuant thereto deserve to be quashed."*

66. The said conclusion has been reached after extensively extracting the judgment of the Division Bench in ***Sunil Kumar Sharma (supra)***. It proceeds on the basis that the premises of the respondent were searched and, therefore, the respondent was a searched person; consequently, the initiation of proceedings under Section 153C of the Act, treating the respondent as 'other person', is unsustainable.

67. The Revenue has relied upon the judgment of the Co-ordinate Bench in ***Associated Mining Company*** *(supra)* and the judgment of the Delhi High Court in ***MDLR Resorts (P) Ltd.*** *(supra)*, both of which deal with the identical issue involved. In addition, reliance is also placed on judgments of

other High Courts. However, upon consideration of only those judgments, the following observations are made:

> *"15. Insofar as the various judgments relied upon by both sides are concerned, having regard to the facts and circumstances narrated hereinbefore, coupled with the fact that the said decisions rendered in the facts of the said cases would not be applicable to the facts of the instant case and as such, the same are not elaborately dealt with for the purpose of the present order."*

68. In the light of the discussions made above, we are of the view that the order of the learned Single Judge is not sustainable. The learned Single Judge has not analysed the provisions of Sections 132, 153A and 153C of the Act, nor the binding precedents. The reliance placed on the judgment of the Division Bench in ***Sunil Kumar Sharma*** *(supra)* is also misplaced. The Division Bench in ***Sunil Kumar Sharma*** *(supra)* does not examine the binding precedents, the provisions of Sections 132, 153A and 153C of the Act, and Rule 112 of the Rules.

CONCLUSION

(i) Section 132 of the Act is person-centric and not premises-centric. The expression "searched person" refers to the person in respect of whom satisfaction has been recorded under clauses (a) to (c) of sub-

section (1) of Section 132, and not merely the person whose premises has been subjected to search.

(ii) The scheme of Section 132 of the Income-tax Act, 1961 draws a clear distinction between the person in respect of whom "reason to believe" is recorded under clauses (a) to (c) of sub-section (1), and the premises in respect of which "reason to suspect" is formed under clauses (i) to (v) thereof. The warrant of authorization is, therefore, fundamentally person-specific, while the place of search is merely incidental to such satisfaction.

(iii) The expression "searched person" must be construed to mean the person against whom satisfaction is recorded and in whose name the warrant of authorization is issued, and not the person whose premises are merely subjected to search. A search conducted at the premises of a third party, on the basis of "reason to suspect" that material belonging to the searched person is kept therein, does not render such third party a "searched person".

(iv) The procedure under Section 153A of the Income-tax Act, 1961 is confined to the person against whom search is initiated within the meaning of Section 132. Proceedings against any other person, in whose premises a search is conducted or from whom material is seized, can be initiated only under Section 153C, subject to satisfaction of the statutory conditions.

(v) The proceedings initiated against the respondent—being the occupant of the premises—under Section 153C of the Income-tax Act, 1961, treating him as an "other person", are in accordance with law. The contention that such proceedings ought to have been initiated under Section 153A of the Act is devoid of merit.

(vi) Section 153C of the Income-tax Act, 1961 does not mandate the recording of a separate satisfaction note for each assessment year. A consolidated satisfaction note, duly recording that the seized material belongs to or pertains to the "other person", satisfies the jurisdictional requirement.

69. For the aforesaid reasons, the order of the learned Single Judge is not sustainable and is liable to be set aside.

70. Accordingly, we pass the following:

ORDER

(i) The Writ Appeal is ***allowed***.

(ii) The impugned order dated 27.10.2025 in W.P.No.33057/2024, passed by the learned Single Judge, is ***set aside***.

(iii) W.P. No.33057/2024 is ***dismissed***.

(iv) The notices issued under Section 153C of the Act, at Annexures A1 to A8, for the Assessment Years 2011–12 and 2018–19, dated 07.11.2019, and for the assessment years 2012–13, 2013–14, 2014–15, 2015–16, 2016–17 and 2017–18, dated 30.03.2019, are hereby ***restored***.

(v) Costs made easy.

We place on record our appreciation for the able assistance rendered by Sriyuths Sri Damodar M. Nayak and

Amaregouda Kellur, Research Assistants, and Sri Harshith .A, Law intern.

SD/-
(S.G.PANDIT)
JUDGE

SD/-
(K. V. ARAVIND)
JUDGE

MV