IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI

Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. S. Rifaur Rahman, Accountant Member

ITA No. 3028/Del/2025 : Asstt. Year : 2010-11
ITA No. 2911/Del/2025 : Asstt. Year : 2011-12
ITA No. 2912/Del/2025 : Asstt. Year : 2012-13
ITA No. 2913/Del/2025 : Asstt. Year : 2013-14
ITA No. 2914/Del/2025 : Asstt. Year : 2014-15
ITA No. 2915/Del/2025 : Asstt. Year : 2015-16
ITA No. 2916/Del/2025 : Asstt. Year : 2016-17
ITA No. 2917/Del/2025 : Asstt. Year : 2017-18
ITA No. 2918/Del/2025 : Asstt. Year : 2018-19

ACIT, Central Circle-25, New Delhi-110055	Vs	Colossus Trade Links Ltd., T-24, Gali No. 10, Rohtak Road, Anand Parvat, Industrial Area, New Delhi-110005
(APPELLANT)		(RESPONDENT)
PAN No. AACCC3937F		

Assessee by : Sh. Salil Aggarwal, Sr. Adv. &
Sh. Shailesh Gupta, CA
Revenue by : Sh. Dayainder Singh Sidhu, CIT-DR

Date of Hearing: 22.09.2025		**Date of Pronouncement: 29.09.2025**

ORDER

Per Bench:

These Revenue's nine appeals ITA Nos. 2911 to 2918 & 3028/Del/2025; for assessment years 2010-11 to 2018-19, arise against the CIT(A)-28, New Delhi's DIN & order No. ITBA/APL/M/250/2024-25/1072711533(1), 1072711806(1), 1072713611(1), 1072716793(1), 1072717201(1), 1072717555(1), 1072717752(1), 1072760629(1) and 1072711164(1), all dated 30.01.2025, in proceedings u/s 153C r.w.s. 143(3) of the Income Tax Act, 1961 (in short "the Act"), respectively.

2. Heard both the parties at length. Case files perused.

3. It emerges at the outset during the course of hearing that the entire batch of the Revenue's instant nine appeals emanate from a common search action dated 05.10.2017 conducted by the department in M/s JBM Group of companies and associates etc. There is no dispute between the parties that all this led to recording of section 153C satisfaction against the assessee and the corresponding notice dated 26.09.2019 stood issued which finally culminated in the impugned nine assessments framed in it's hands *inter alia* disallowing/adding unaccounted scrap purchase and assessment of profit element thereupon, involving varying sums, which stand deleted in the CIT(A)'s lower appellate findings on merits.

3.1 This is what leaves the department aggrieved who has filed the instant batch of nine appeals *inter alia* seeking to revive the Assessing Officer's action on both the foregoing counts.

4. Learned senior counsel at this stage seeks to raise a legal ground/issue by involving Rule 27 of the Appellate Tribunal Rules, 1963 that the impugned assessments forming subject

matter of adjudication herein in assessment years 2010-11 to 2013-14 are not sustainable in law for the precise reason that there is no specific compliance to section 153C r.w.s. 153A(b) r.w. 2nd proviso thereto, ensured by the departmental authorities, that the income which is required to be assessed is covered under the statutory amendment and in the relevant assessment year or years; when counted from the date of satisfaction i.e. 26.09.2019 as per 1st proviso to section 153C(1) of the Act.

5. We make it clear that there is no material in the case record indicating the learned departmental authorities to have specifically taken note of the foregoing statutory amendment inserted by the Finance Act, 2017 w.e.f. 01.04.2017 which has been held as mandatory in PCIT vs. Ojjus Medicare Pvt. Ltd. & (2024) 465 ITR 101 (Delhi) and PCIT vs. Jasjit Singh (2024) 336 CTR 634 (Delhi). Learned counsel has further quoted the tribunal's recent decision in M/s Zeal Impex & Traders Pvt. Ltd. Vs. DCIT in ITA Nos. 665 & 666/Del/2024 dated 04.04.2025 deciding the very issue against the department as under:

> *"3. It emerges at the outset that there arises the first and foremost issue of the validity of the impugned section 153C r.w.s. 143(3) assessments itself, both framed on 9th March, 2021. This is for the precise reason that the learned senior counsel informs us that the search in question herein in the case of Sh. Surendra Kumar Arya took place on 05.10.2017 followed by the corresponding section 153C notice(s) issued to the assessee on 14.11.2019. Mr. Agarwal then seeks to reckon the assessment year to be involved herein as per*

section 153A(1)(b) r.w.s. 1st and 2nd proviso and section 153C 1st proviso that "the reference to ………. such other person". The assessee thereafter quotes case law CIT Vs. RRJ Securities Ltd. (2016) 380 ITR 612 (Del), PCIT Vs. Ojjus Medicare (P) Ltd., (2024) 465 ITR 101 (Del) and CIT Vs. Jasjit Singh (2024) 465 ITR 101 (SC) that their lordships have already settled the issue that date of initiation of search in such an instance involving a third person other than the searched assessee has to be construed as the date of recording section 153C satisfaction only.

4. Learned counsel's case accordingly is that the above statutory block of six assessment years; when counted from the clinching date of section 153C satisfaction on 14.11.2019 does not admittedly cover both these assessment years 2012-13 and 201314 which renders the twin assessments herein as not sustainable in law.

5. The Revenue strongly contests the assessee's instant first and foremost ground by quoting the statutory amendment in section 153A(1)(b) r.w. 1st and 2nd provisos thereto that the case very well falls in "and for the relevant assessment year or years" inserted by the Finance Act, 2017 w.e.f. 01.04.2017. And that the search herein dated 05.10.2017 was conducted much after the above statutory amendment. The Revenue's case in light thereof is that we ought to uphold the impugned section 153C assessment in very terms."

6. Learned senior counsel's further submits that the last assessment year herein A.Y. 2018-19 does not involve any proceedings u/s 153C of the Act since both the lower authorities have gone the date of search on 05.10.2017 itself than that of recording satisfaction under 1st proviso thereto, to frame section 143(3) assessment in the assessee's case. We therefore reject the Revenue's vehement contentions in light of the above statutory proviso to section 153C proceedings which could have been involved against the assessee in the preceding

assessment years as on 26.09.2019 in light of the foregoing judicial precedents.

7. The factual position is hardly stated to any different for the remaining assessment years i.e. A.Ys. 2014-15 to 2017-18 on merits as well as the learned CIT(A) appears to have deleted the foregoing twin additions on merits going by the tribunal's common order in the very search cases; as under:

> *"5. Ground No. 1 to 6: I have considered the facts of the case, assessment order and the submissions made by the appellant during the course of appeal proceedings.*
>
> *5.1 Brief facts of the case are that the assessee company is engaged in the business of trading of scrap. A search and seizure operation u/s 132(1) of the IT Act was conducted on 05.10.2017 on IBM Group companies, its directors and key management personnel. During the course of search at the residence of Shri. Prasahesh Arya, Chief General Manager (Finance) of IBM Group, unaccounted cash was found and seized. Statement of Shri. Arya was recorded and in reply with respect to source of the cash, Shri. Prasahesh Arya admitted that the cash has been generated on account of unaccounted sale of scrap through under invoicing in 4 manufacturing units of M/s Jay Bharat Maruti Ltd. and M/s Neel Metal Products Ltd. He has further stated that he received Rs. 50-55 Lakhs from each of the 5 scrap vendors against unaccounted sales of scrap. He named following five scrap dealers from whom the impugned cash was received.*
>
> *1. Shri Sunk Aggarwal, M/s Bansal Iron and Sheet Traders.*
> *2. Shri Mi Bonsai, M/s Bansai Iron and Sheet Traders.*
> *3. Shri. Deepak Gulati, M/s Colossus Tradelink Ltd.*
> *4. Shri Rajiv Mittal, M/s Shree Balaji Metal-tech Pvt. Ltd. Faridabad.*
> *5. Shri. Jagdish Bhatia, M/s Isha Enterprises, Faridabad.*
>
> *5.2 The primary allegation in this group of cases is that the JBM Group is engaged in unaccounted scrap sale which was purchased by the above-named scrap vendors including the appellant. In the cases of various entities*

of JBM Group, in view of the material found during the course of search additions were made on account of

1) Under-invoicing of value of scrap sale by 20% and
2) Unrecorded sale of scrap by 12%

5.3 Corresponding additions were made in the cases of scrap vendors by enhancing the rate of scrap purchase recorded in the books of accounts by 20% and that of quantity of scrap purchased by 12%. The appellant company is one of the five scrap dealers who were engaged in unaccounted purchase of scrap from the JBM Group, Accordingly, assessment u/s 153C/143(3) of the IT Act was completed on 23.04.2021 making an addition of Rs.16,89,23,118/" on account of under-invoicing and un-recorded purchases of scrap.

5.4 The appellant has submitted that in the order passed u/s 153A of the IT Act in the case of JBM group of companies for A Y 2008-09 to A Y 2018-19 the addition on account of unaccounted scrap sale were made. The addition was made on account of unaccounted scrap sale by alleging that the quantity of scrap sale as per books of accounts is short by 12% and the rate of scrap sale recorded as per books of accounts Is short by 20%. It has been further stated that the facts and documents relied upon in all the order u/s 153A of JBM group of companies is same.

5.5 It has been further submitted by the appellant that the addition has been made in the hands of the appellant in respect of purchase of scrap from Neel Metal Products Ltd. and Neel Auto Ltd. In the hands of Neel Metal Products Ltd and Neel Auto Ltd. the addition in respect of unaccounted sale of scrap has been made. The appeal of Neel Metal Products Ltd and Neel Auto Ltd, AY 2018-19 has been decided by the Hon'ble ITAT Delhi vide their order 09.07.2024.

Relevant extract of Hon'ble ITAT order dated 09.07.2024 in reproduced below:-

26. Issue No. 11 is with regard to Scrap Sate addition in AY 2018-19 in case of both the assesses, which is confirmed by the CIT(A), for which both the assesses have come in appeal AY 2018-19. Ld. DR has however, supported the findings of CIT(A) and what we find is that CIT(A) has sustained addition of a sum of Rs.6,20,00,000/- in case of assesses no. 1. and of Rs1,95,00,000/- in case of assesses no. 2, on account of alleged under invoicing and alleged unrecorded sales. We *the ' - recorded by learned AO and CIT(A) are identical and verbatim same as recorded in AY .2010-11, wherein, Leaned CIT(A) however, while giving relief on similar lines as in AY 2010-11 has sustained these additions. The sole basis &f learned CIT(A) to sustain the said addition is the statement of Sh. Prashesh Arya and some images found from mobile of Sh. Prashesh Arya in shape of "kachchi parhci images". However, learned CIT(A) has failed to appreciate the fact that the said transactions were duty offered by Sh. Prashesh Arya in his personal capacity and also the same was not made as a basis by learned AO to make any addition, as such, the same cannot be inferred oh presumed to have belonged to Assesses Company. That further, again teamed CTT(A) relied on the statement of Sh. Prashesh Arya recorded during the course of search without there being any material whatsoever, and had relied on a table wherein Sh. Arya has allegedly declared unaccounted income of assesses during the AY 2018-19. That while doing so, it is noticed that learned CTT(A) has recorded a contradictory finding, as held while dieting the balance additions, which we have extensively discussed in findings of issue no. 1 and 2. There seems to be no attempt to have the facts recorded in these parchi verified by any further enquiry. Thus, the findings of CIT(A), cannot be sustained and this ground no. 11 is decided in favour of assesses.*

5.1 I have considered the assessment order, submissions made by the appellant during the course of appellant proceedings and the Hon'ble ITAT's order in the case of Neel Metal Products Ltd. and Neel Auto Ltd. for AY 2018-19 and material available on record. Respectfully, following the judgement of Hon'ble ITAT in the case of Neel Metal Products Ltd. and Neel Auto Ltd. for AY 2018-19, wherein the Horrible Tribunal has decided the appeal In the favour of assesses on account of under invoicing and unrecorded sales, the appeal of the assesses is allowed."

8. It is in light of our foregoing detailed discussion that we hereby reject the Revenue's vehement contentions in all these assessment years *inter alia* to conclude that the learned Assessing Officer's assessments framed in assessment years 2010-11 to 2013-14 are non est in the eyes of law since having not recorded section 153C satisfaction specifically as per the

standing amendments, uphold the learned CIT(A)'s findings in assessment years 2014-15 to 2017-18 on merits as per the tribunal's adjudication on the very issue(s) and quash the Assessing Officer's section 143(3) assessment in the last assessment years 2018-19, in above terms. The assessee succeeds in his legal arguments to this extent therefore.

9. All other pleadings on merits between the parties stand rendered academic.

10. These Revenue's nine appeals ITA Nos. 2911 to 2918 & 3028/Del/2025 are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order Pronounced in the Open Court on 29/09/2025.

Sd/-	Sd/-
(S. Rifaur Rahman)	**(Satbeer Singh Godara)**
Accountant Member	**Judicial Member**

Dated: 29/09/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR