



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (L) NO.4894 OF 2025
WITH
WRIT PETITION (L) NO.4895 OF 2025
WITH
WRIT PETITION (L) NO.4903 OF 2025
WITH
WRIT PETITION (L) NO.4909 OF 2025
WITH
WRIT PETITION (L) NO.4912 OF 2025
WITH
WRIT PETITION (L) NO.4916 OF 2025
WITH
WRIT PETITION (L) NO.4917 OF 2025
WITH
WRIT PETITION (L) NO.4933 OF 2025
WITH
WRIT PETITION (L) NO.4953 OF 2025
WITH
WRIT PETITION (L) NO.5015 OF 2025
WITH
WRIT PETITION (L) NO.5041 OF 2025**

DNH Spinners Private Limited
a company incorporated in India
having its registered office at Unit
No.1701, 17th floor, Supreme
Headquarters, Junction of 14th
and 33rd Road, Bandra West,
Mumbai-400050.

.. Petitioner

Versus

1. Deputy Commissioner of Income-tax,
Central Circle -1(2), 906, Pratiksha
Bhavan, Old CGO Annexe, Maharishi
Karve Road, Mumbai-400020.
2. Principal Commissioner of Income-tax
Central -1 Mumbai

Pratiksha
 Bhavan, Old CGO Annexe, Maharishi
 Karve Road, Mumbai-400020.

3. Union of India,
 Through the Secretary,
 Department of Revenue,
 Ministry of Finance,
 Government of India,
 North Block, New Delhi-110001. .. Respondents

Mr. Dharan Gandhi for the Petitioner.
 Mr. Akhileshwar Sharma a/w Ms Shraddha Worlikar for the
 respondents.

**CORAM M.S. Sonak &
 Jitendra Jain, JJ.**

**RESERVED ON: 10 March 2025
 PRONOUNCED ON: 17 March 2025**

JUDGMENT (Per Jitendra Jain, J):-

1. Heard learned counsel for the parties.
2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. This is group of 11 writ petitions filed by the petitioner for various assessment years, which are tabulated as under :-

Sr.No.	WP (L) Numbers	Assessment Years
1	4894 of 2025	2013-14
2	4895 of 2025	2014-15
3	4903 of 2025	2018-19
4	4909 of 2025	2015-16
5	4912 of 2025	2020-21
6	4916 of 2025	2019-20
7	4917 of 2025	2011-12
8	4933 of 2025	2017-18
9	4953 of 2025	2010-11

10	5015 of 2025	2016-17
11	5041 of 2025	2012-13

4. The petitions challenges the notices issued under Section 153C of the Income-tax Act ('the Act') dated 28 February 2024 and the orders rejecting the objection to the issue of this notice. By consent of the parties, since a common issue is involved, Writ Petition (L) No.4894 of 2025 for the assessment year 2013-14 is taken as a lead matter.

5. The facts relevant to Writ Petition (L) No.4894 of 2025 for Assessment Year 2013-14 are as under:-

(i) On 19 October 2019, a search action under Section 132 of the Act was initiated in the case of Alok Kumar Agarwal, Ankit Agarwal, M/s. Alankit Limited and M/s. Alankit Assignments Limited, Delhi. In the said search action, various documents and books of accounts were seized from the search parties.

(ii) On 31 May 2022, the Deputy Commissioner of Income Tax (DCIT), Delhi wrote to the DCIT, Mumbai that during the course of the assessment proceedings under Section 153A of Alankit Group, materials/documents which has bearing on deciding the total income of the petitioner were found and, therefore, satisfaction note along with related annexures were forwarded for necessary action in the case of the petitioner under Section 153C of the Act. In the documents annexed to the satisfaction note, it is stated that Alankit Group was engaged in providing accommodation entries to various parties, including the petitioner.

(iii) On 28 February 2024, the DCIT, Mumbai recorded

satisfaction note in the case of the petitioner. In the said satisfaction note, it is stated that there was search action against Alankit Group and it was revealed that various shell entities controlled by Alok Kumar Agarwal had transactions with the petitioner for providing accommodation entries for various years. The satisfaction note records multiple assessment years. The satisfaction note further records the transactions between Alankit Group and the petitioner for some of the assessment years and, therefore, the assessment proceedings under Section 153C of the Act were proposed to be initiated for the assessment years 2010-11 to 2020-21. Thus, the notice dated 28 February 2024 under Section 153C of the Act came to be issued for assessment year 2013-14. The said notice called upon the petitioner to file its return of income in response to the said notice within 30 days from the service of the notice.

(iv) On 3 April 2024, the petitioner uploaded a reply to the aforesaid notice under Section 153C of the Act. In the said reply, the petitioner stated that since the respondents have not opened the window for uploading the return of income, the petitioner is unable to upload the return and, therefore, the petitioner requested to open the window to comply with the notice under Section 153C of the Act. The petitioner also requested a copy of the satisfaction note for issuing such a notice.

(v) On 6 April 2024, the petitioner objected to the notice under Section 153C of the Act by uploading its

objections on the respondents' portal. In the said objection, the petitioner requested a copy of the satisfaction recorded before issuing the notice. The petitioner further stated in its objection that the relevant documents from the Assessing Officer (AO) of the search person may have been received in and around January 2024 and, therefore, the notice under Section 153C can be issued for six assessment years but not later than 10 assessment years if the income escaping assessment is likely to exceed Rs.50 lakh. The assessee also raised a plea concerning the computation of the block period, whether it should be from the date of receipt of books of the accounts by the jurisdictional AO of the non-search person or the actual date of search in the case of the person against whom the search action has been initiated and accordingly the period of the "relevant assessment years" is to be calculated. The petitioner, therefore, submitted that 6 years in its case would start from assessment year 2017-18 onwards since the AO received the records in and around January 2024. The objection further states that since the pre-requisite satisfaction of income having escaped assessment of more than Rs.50 lakh is not satisfied, the extended period of 10 years cannot be invoked. In any case, even if the extended period is invoked, the notice issued for assessment years 2010-11 to 2013-14 is without any authority of law.

(vi) On 21 November 2024, the respondents intimated to the petitioner about the DIN number of the intimation letter by which notice under Section 153C of the Act was issued.

(vii) On 27 November 2024, the petitioner uploaded its return of income for assessment year 2013-14 in Form ITR-6 in compliance with the notice under Section 153C of the Act.

(viii) On 6 December 2024, a notice under Section 143(2) of the Act was issued to the petitioner stating that there are certain points in connection with the return of income submitted on 27 November 2024 on which the AO would like to have further information and, therefore, requested the petitioner to attend the office of the respondents on 23 December 2024 at 11.00 a.m.

(ix) On 7 December 2024, the petitioner objected to the notice under Section 153C of the Act on various grounds. The petitioner inter alia contended that the primary condition for issuing notice under Section 153C of the Act is the satisfaction of the AO that the incriminating material found during search and seizure action has a bearing on the assessee's total income. The petitioner further stated that they have not been provided a satisfaction note despite the request being made. The petitioner submitted that no incriminating material has been found for initiating proceedings under Section 153C of the Act. The petitioner also objected to the issue of notice for various assessment years by interpreting the phrase "relevant assessment year/years." The primary contention being the starting date for calculating the limitation whether from the date of receipt of books by the jurisdictional officer and what is the date of receipt of the books of accounts. The petitioner also stated that there is no satisfaction that the income

escaped assessment is more than Rs.50 lakh.

(x) On 28 December 2024, the respondents passed an order rejecting the petitioner's objections. In the said order, the respondents referred to the incriminating material for the assessment years 2014-15, 2015-16, and 2016-17 and further, after referring to the same, it is stated that these transactions are likely to have a bearing on the total income of the petitioner for assessment years 2010-11 to 2020-21. The order further states that since the undisclosed income by using accommodation entries as escaped assessment is likely to exceed Rs.50 lakh, the assessment proceedings must be taken under Section 153C of the Act. The respondents also rejected the petitioner's contention that the notice is time-barred. The respondents also stated that the interpretation of the phrase "relevant assessment year" by the petitioner is not correct, and the condition for issuing notices under Section 153C of the Act has been correctly met. Along with the said order, the petitioner was provided with various materials, including the satisfaction note.

6. Against the above backdrop, the petitioner is challenging the issue of notice under Section 153C of the Act dated 28 February 2024 and the order rejecting the objection dated 28 December 2024.

7. Mr. Gandhi, learned counsel for the petitioner, submitted that the proceedings are time-barred under clause (ii) to the third proviso to Section 153B(1) of the Act. He further submitted that since a satisfaction note by the AO of

the search party has been prepared after a gap of 10 months, the same is bad in law. Thirdly, he submitted that the satisfaction note prepared by the petitioner's AO is after a gap of more than 4 years from the date of search and more than 21 months from the date of the satisfaction note of the AO of the search party and, therefore, the same is time-barred. He also challenged the proceedings that a communication letter dated 31 May 2022 by the DCIT is without DIN. He submitted that there is no incriminating material and, therefore, the provisions of Section 153C of the Act are not attracted. He submitted that no opportunity has been provided to challenge the satisfaction note. He, therefore, submitted that the impugned proceedings are to be quashed and set aside. Mr. Gandhi relied on various decisions in support of these submissions. However, except for stating that he should not be made to face assessment since he has raised jurisdiction issue, no arguments have been raised as to why this Court should exercise its discretionary jurisdiction.

8. Mr. Sharma, learned counsel for the respondents submits that the issue involved in these petitions requires investigation of facts as to whether there is any incriminating material for invoking the provisions of Section 153C of the Act for various assessment years. He further submitted that insofar as the limitation issue is concerned, it has to be ascertained as to on what date books of accounts were transferred to the AO of the petitioner. He further relied upon the order to reject the objection to interpreting the phrase "relevant previous year." He submitted that the limitation

issue is a mixed question of fact and law; therefore, under Article 226 of the Constitution of India, this Court should not entertain the petition involving the disputed question of fact. He submitted that the petitioner is not without any remedy. Still, this issue can be raised in the appeal proceedings if the petitioner is unsatisfied with the final assessment order under Section 153C of the Act. He submitted that this is a case where huge unaccounted income in the form of accommodation entries were found and, therefore, the respondents should not be restrained from proceeding with the assessment proceedings at this stage. He submitted that the issues raised can be adjudicated in the appeal proceedings.

9. We have heard learned counsel for the petitioner and respondents.

10. At the outset, we wish to state that the petitioner in the Writ Petition at page 42, paragraph 6, has stated that the petitioner has no equally efficacious alternate remedy and, therefore, has approached this Court through Writ Petitions. In our view, the issues raised in the present petitions can be agitated before the Appellate Authority in an appeal filed against an order passed under Section 153C of the Act. The said order under Section 153C of the Act is appealable. The present notice and the orders challenged in interlocutory proceedings cannot be challenged in the Writ Petition and more so for the reasons we propose to set out hereinafter.

11. The petitioner has stated that the proceedings are bad in law since no incriminating material was found for certain years. The present proceedings are initiated under the

documents and information received from the assessing officer at New Delhi who had initiated the search proceedings against Alankit Group. Whether for any assessment year or for all assessment years for which the notices are issued, there is incriminating material that would require investigation and inquiry into the documents received from the assessing officer at New Delhi by the assessing officer of the petitioner.

12. In its writ jurisdiction, this Court cannot go through the material received from the New Delhi assessing officer to ascertain any incriminating material for each of the assessment years for which the notice is issued. In our view, this would be best left for the assessing officer to be examined during the assessment proceedings and for the Appellate Authority under the Act to decide this issue. At this stage, it would not be proper for the Court to adjudicate and enter the arena of investigation into the facts relating to incriminating material. At least *prima facie*, we cannot say that there was no incriminating material or that the exercise was wholly without jurisdiction. Therefore, it would be appropriate for the petitioner to agitate this issue in the regular appellate proceedings if the petitioner is not satisfied with the assessment order passed under Section 153C of the Act.

13. We also observe that the issue relates to accommodation entries provided by the petitioner's Alankit Group and huge unexplained income by adopting this *modus operandi*. This issue must be examined minutely during the assessment proceedings. Looking at the facts of this case, we cannot exercise our discretionary jurisdiction to restrain the

respondents from proceeding with the assessment proceedings.

14. The petitioner's next submission concerns the communication dated 21 November 2024 issued by the ACIT wherein it is stated that the notice under Section 153C has DIN No.ITBA/AST/M/153C/2024-25/1070513034(1). The petitioner contends that the belated generation of DIN is bad in law, and, therefore, the impugned notice is time-barred. At the outset, the notice dated 28 February 2024 at Exhibit B does bear the DIN number. Consequently, we fail to understand on what basis the petitioner states that the DIN number is belatedly generated. In any case, whether the initial notice under Section 153C had a DIN number or not and whether communication dated 21 November 2024 has generated a DIN number belatedly is the question which requires the Court to go into the factual issues. In its extraordinary jurisdiction, this Court cannot venture into such exercise and exercise its discretionary jurisdiction for adjudication of this issue. Therefore, in our view, even this issue can efficaciously be adjudicated in the assessment and the appeal proceedings under the Act and not in the writ proceedings.

15. The petitioner further contended that no opportunity had been given to challenge the satisfaction note by the assessing officer. In our view, this is not correct because in the order dated 28 December 2024, the respondents have rejected the objections and in the said order it is expressly stated in paragraph 8 that the petitioner was given time of 15 days

from the date of disposal of the objections to decide its further course of action in the matter and thereafter no objections would be entertained. We do not find any infirmity in this finding of the assessing officer in the order rejecting the objection. The assessing officer has given the opportunity to the petitioner to decide its course of action, and therefore, the petitioner has approached this Court by filing writ petition. Insofar as non-entertainment of further objections is concerned, we do not find any infirmity since at some stage the filing of objections to the proceeding has to stop. Otherwise, there will be no end to the petitioner's time and again filing objections and the officer passing order every time. Therefore, the contention raised by the petitioner on this issue for this Court to exercise its discretionary jurisdiction must also be rejected.

16. The petitioner has further submitted that the satisfaction note is not for all the assessment years, and in the absence of any co-relation of the document with the assessment years for which the notice is issued, the same constitutes a violation of condition of Section 153C of the Act. In our view, this would require examining the documents with the assessment year for which the notice is issued. This investigation of co-relation of the documents assessment year-wise cannot be done by this Court and more so while exercising discretionary extraordinary jurisdiction under Article 226 of the Constitution of India. This factual co-relation must be done by the authorities under the Act and therefore the efficacious and alternate remedy is more

appropriate for adjudication of this issue and this Court cannot be converted into the role of an assessing officer for carrying out this investigation. Therefore, even this submission is required to be rejected.

17. The petitioner has raised the issue of the notice being time-barred by relying upon clause (ii) of the Act's 3rd proviso to Section 153B(1). It is the contention of the petitioner that the material was handed over to the petitioner's assessing officer in May 2022, and therefore, the assessment proceedings have become time-barred on 31 March 2024. The petitioner has raised this contention in its letter dated 6 April 2024. The exact date on which the assessing officer of the petitioner received the records is not known. The petitioner, based on letter dated 3 January 2024 is proceeding on the premise that the materials were handed over to the petitioner's assessing officer in May 2022.

18. In our view, the question of limitation is a mixed question of law and facts. Furthermore, Section 153B(1)(ii) provides that the period of limitation for assessing case of other persons referred to under Section 153C shall be the period of 12 months from the end of the financial year in which the last of the authorization for search under Section 132A was executed or 12 months from the end of the financial year in which books of accounts or documents or assets seized or requisition are handed over under Section 153C to the assessing officer having jurisdiction over such person whichever is later. To examine whether the limitation for deciding whether the assessment has become time-barred or

not would require this Court to ascertain what was the last date of authorisation for search in the case of Alankit Group. We have not been shown by the petitioner the date of last authorisation. Therefore, it would not be appropriate for this Court to examine the issue of limitation raised in the present proceedings. Also, we may observe that there are conflicting decisions on this issue based on facts of each case. Therefore, it is appropriate that the authorities adjudicate this issue under the Act. However, that would not preclude the petitioner from raising a plea of limitation in the appeal proceedings if the petitioner is not satisfied with the assessment order.

19. In our view, it would be premature to presume that the assessment order passed under Section 153C would be against the petitioner. If during the assessment proceedings, and based on the submissions made by the petitioner, if the assessing officer is convinced on the merits of the case, then no prejudice would be caused to the petitioner. However, if the assessment proceedings are intricately at this stage, it would undoubtedly preclude the assessing officer from investigating. This is the case of search and seizure where huge unaccounted income in accommodation entry has been detected. In our view, this Court cannot exercise its discretionary jurisdiction in such type of cases by which the officer should be prevented to proceed with such type of assessment proceedings.

20. The petitioner has relied upon various case laws. However, these are the case laws on the merits of the case. As

observed above, the issues raised in this petition require investigation of facts and raised mixed questions of law and facts. We do not wish to exercise our discretionary jurisdiction by entering the arena of factual investigation. This course of action is best left for the authorities under the Act to be examined. We do not propose to deal with the case laws since as observed above, we are not inclined to entertain the present petition, but the petitioner is relegated to raise all the issues raised in these petitions before the authorities under the Act in accordance with law.

21. In view of the above, all the petitions are dismissed with no order regarding cost.

(Jitendra Jain, J)

(M.S. Sonak, J)