

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH “ B ” : BANGALORE

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA Nos.422 to 426/Bang/2020
Assessment Years : 2006-07, 2007-08, 2009-10, 2010-11 & 2011-12,

M/s. R.N. Shetty Trust No.14 th , 7 th Floor No.37 Naveen Complex, M.G. Road Bengaluru PAN NO : AAATR2319D	Vs.	ACIT Circle-2(3), Bengaluru
APPELLANT		RESPONDENT

ITA Nos.429 to 432/Bang/2020
Assessment Years: 2006-07, 2007-08, 2008-09 & 2011-12

M/s. Naveen Hotels Limited No.14 th , 7 th Floor No.37 Naveen Complex, M.G. Road Bengaluru PAN NO : AAACN7433R	Vs.	ACIT Circle-2(3), Bengaluru
APPELLANT		RESPONDENT

ITA Nos.443 & 444/Bang/2020
Assessment Years: 2006-07 & 2007-08

M/s. Naveen Mechanised Construction Company Pvt. Ltd. No.14 th , 7 th Floor No.37 Naveen Complex, M.G. Road Bengaluru PAN NO : AAACN7434J	Vs.	ACIT Circle-2(3), Bengaluru
APPELLANT		RESPONDENT

ITA No.2156/Bang/2018
Assessment Year: 2010-11

M/s. Naveen Hotels Limited No.14 th , 7 th Floor No.37 Naveen Complex, M.G. Road Bengaluru PAN NO : AAACN7433R	Vs.	ACIT Circle-2(3), Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Shri Ashok A. Kulkarni, A.R.
Respondent by	:	Shri Muzaffar Hussain, D.R.

Date of Hearing	:	04.02.2021
Date of Pronouncement	:	08.02.2021

ORDER

PER BENCH :

All these appeals belongs to Group of Assesses filed against different orders of Commissioner of Income Tax (Appeals), Bangalore.

2. In these cases, the assessment order framed u/s. 143(3) r.w.s. 153C of the Income Tax Act, 1961 ('the Act') consequent to search in the case of RNS Infrastructure Limited and others on 16.02.2012. The assesses in all these appeals, inter alia, raised the legal ground with regard to non-recording of satisfaction by the Assessing Officer of searched persons.

3. The learned Authorised Representative submitted that the assessee sought for copies of order sheet entry to know the satisfaction recorded by the Assessing Officer of searched persons so as to issue Notice by the Assessing Officer to the assessee u/s. 153C of the Act. However, the Assessing Officer refused to supply the satisfaction recorded to invoke the provisions of Section 153C of the Act stating that it is confidential document. The assessee also made a request before the CIT (Appeals) to summon the records which also not done. Further, it was submitted that the assessee though raised the grounds before lower authorities, the CIT (Appeals) has given cryptic finding on this issue that if any document is found in the course of search action and the same constitute incriminating material that points to the undisclosed income of other than searched person then proceedings u/s. 153C r.w.s. 153A will have to be commenced in respect of that other person. In these cases, the CIT (Appeals) has not given findings whether there was recording of satisfaction by the Assessing Officer of searched person before transferring the files relating to these cases to the jurisdictional Assessing Officer of these assessee. According to him, this being the legal issue, it will go into the root of the matter to be decided by the CIT (Appeals) after calling for the relevant records from the Assessing Officer of searched person.

4. The learned Departmental Representative submitted that the Assessing Officer has gone through the entire details of seized material found during the course of search action in the case of RNS Infrastructure Limited and other cases and from the seized material the Assessing Officer of searched person came to know that there was undisclosed income of these assesses and transferred the relevant records to the Assessing Officer of these assesses. Thereafter, the Assessing Officer of these assesses issued Notices u/s. 153C of the Act. According to the Id. DR, since the assesses have not raised the issue regarding recording of satisfaction before the respective Assessing Officer at the time of assessment, he cannot raise the same before the CIT (Appeals) or before the Tribunal. He relied on the orders of CIT (Appeals).

5. We have heard both the parties and perused the material on record. As per Section 153C of the Act, the Assessing Officer of searched person shall proceed against such other person on reaching satisfaction that any undisclosed income belonging to such other person over whom he has no jurisdiction then he has to transmit the seized material to the Assessing Officer having jurisdiction over such other person, in such a case, the Assessing Officer who has jurisdiction will proceed against such other person by issuing Notice as contemplated u/s. 153C r.w.s. 153A of the Act. In the present case, the assessee repeatedly asked for the

order sheet entry relating to recording of satisfaction, however the Assessing Officer given a reply that it is a confidential document and it cannot be furnished to the assessee. Even before the CIT (Appeals), the assessee has raised the issue of providing order sheet entry and recording of satisfaction. The CIT (Appeals) has not provided the same and dismissed the appeals in a summary manner observing that document found in the course of search constitute as an incriminating material that points to the undisclosed income of a person other than a searched person, then the proceedings u/s. 153C r.w.s. 153A of the Act has been rightly initiated. However, the CIT (Appeals) not given finding that what basis he came to such conclusion that there was a recording of satisfaction by the Assessing Officer of searched person. Hence we are of the opinion that recording of satisfaction is legal issue which shall be examined by the learned CIT (Appeals) after calling the relevant record from the Assessing Officer of searched person and decide the issue afresh. With this observation, we remit this issue to the file of CIT (Appeals) for fresh adjudication. Regarding the objection by the Id. DR that the assessee has co-operated with the Assessing Officer and precluded from raising this issue before this Tribunal have no merit since the assessee from the beginning sought the copies of recording of satisfaction by the Assessing Officer of searched person. Further at this stage, we are refrained going into other grounds of appeals

raised by the assesses. Since we have remitted the legal issue to the file of CIT (Appeals) for fresh consideration, other grounds raised by the assesses are kept open and the assesses are at liberty to raise these grounds, in accordance with the law, if the assessee intends to do so.

6. In the result, the appeals of the assesses are allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(SMT. BEENA PILLAI)
JUDICIAL MEMBER

Sd/-

(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Dated: 08.02.2021.

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore