



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 3152/2025

Giriraj Pugalia S/o Ratan Lal Pugalia, Aged About 54 Years, R/o
Dammani Chowk Bikaner - 334005.

-----Petitioner

Versus

Assistant Commissioner Of Income Tax, Circle-1, Income Tax
Department, Bikaner

-----Respondent

For Petitioner(s) : Mr. Aditya Vijay (through VC)
Mr. Pankaj Arora
For Respondent(s) : Mr. K.K. Bissa

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE CHANDRA PRAKASH SHRIMALI**

Judgment

Reportable

04/03/2025

1. This writ petition under Article 226 of the Constitution of India has been preferred claiming the following reliefs:

"It is therefore, most respectfully prayed before this Hon'ble Court to kindly allow the present Writ Petition and by an appropriate Writ, order or direction, Hon'ble Court may further be pleased to:

- 1. Issue writ in the nature of certiorari or any other appropriate writ/order/direction quashing/nullifying setting-aside the impugned notice issued u/s 153C dated 16/06/2023 [Annexure-1] by the Respondent for A.Y. 2019-20.*
- 2. Issue a Writ of Certiorari or Writ of Mandamus or appropriate writ, direction or order quashing the all the*



consequential proceedings after the passing of impugned notice order dated 16/06/2023.

3. Any other order/direction, which this Hon'ble Court deems appropriate in the interest of justice."

2. The grievance arose to the petitioner when he received a notice dated 16.06.2023 (Annexure-1) issued under Section 153C of the Income Tax Act, 1961 (hereinafter referred to as 'Act of 1961').

3. The pleaded case of the petitioner is that the petitioner filed his usual returns declaring an income of Rs.41,89,700/- for the Assessment Year 2019-20 and was not having any kind of dissatisfaction on the part of the respondent regarding the same. Subsequently, while a search and seizure action was conducted upon one Om Kothari Group on 13.07.2020 by the Investigation Directorate, Jaipur, Rajasthan, the petitioner was served upon the impugned notice dated 16.06.2023 under Section 153C of the Act of 1961, whereby the petitioner was required to file the return of income. In pursuance of the same, the petitioner again filed a return on 03.07.2023.

3.1. The petitioner, in the meanwhile, also sought a satisfaction note of the respondent, which would have been the basis of issuance of the impugned notice, and the said satisfaction note was sought for, by filing an application dated 19.12.2024. Such satisfaction note was provided by the respondent, reflecting that it was a fit case where the proceedings under Section 153C of the Act of 1961 were to be initiated against the present petitioner.



3.2. The satisfaction note indicated that during the course of search proceedings, it came to the notice that there were certain WhatsApp chats between the Directors and Associates of the Om Kothari Group, vide which an inference was drawn that certain plots have been purchased by the petitioner from Om Metal Infotech Private Limited (a group concern of Om Kothari Group), and towards such purchase, the petitioner paid money in cash, which were not recorded in the books of account. Except for such WhatsApp chats, no other incriminating document was found against the petitioner, when the search and seizure in question took place.

4. Learned counsel for the petitioner submits that Section 153C has a mandatory condition of the dereliction arising out of the books of account or the documents or assets seized, and cannot be on the basis of WhatsApp chats.

4.1. Learned counsel further submits that the WhatsApp chats did not even indicate petitioner's name or telephone number and only indicated a surname which is very common in the State of Rajasthan.

4.2. Learned counsel also submits that the whole jurisprudence of Section 153C of the Act of 1961 requires strict compliance, and unless there was such an adherence, the notice under Section 153C and the consequential performance note cannot be sustained in the eyes of law.

4.3. Learned counsel reiterated that no such document or books of account or assets were found or seized, when the search and



seizure action was conducted upon Om Kothari Group on 13.07.2020, and thus, the provision of Section 153C of the Act of 1961 could not have been invoked.

4.4. Learned counsel further submits that there are three essential elements of Section 153C, which require firstly, a primary person on whom the search has to be conducted; secondly, discovery of documents found in the custody of the 'searched person' relating to the 'other person'; and thirdly, the incriminating material to invoke proceedings against the 'other person'.

4.4.1. Learned counsel also submits that clearly the present petitioner does not fall within the term 'other person', and thus, Section 153C of the Act of 1961 could operate only to the limited ambit of statute, which gave powers to the respondent to operate against 'other person'.

4.5. Learned counsel further submits that the WhatsApp chats in question do not fall within the domain of any of the above and did not provide for any direct financial interaction between the parties in question.

4.6. Learned counsel also submits that the satisfaction note in question is vague and does not mention any kind of basis, so as to warrant any kind of action against the present petitioner.

4.7. While relying upon the judgment rendered by the Hon'ble Supreme Court in the case of **Anwar PV Vs. B.K. Basheer, (2014) 10 SCC 473** and **Arjun Pandit Rao Khotkar Vs. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1**, learned



counsel contended that WhatsApp conversion and the statement recorded under Section 132(4) of the Act of 1961 would not conform to the parameters laid down in the said precedent laws. Reliance has also been placed on the judgment rendered by the Hon'ble Supreme Court in the case of **Common Cause Vs. Union of India, (2017) 394 ITR 220 SC.**

4.8. In support of his submissions, learned counsel also relied upon the following order/judgments:

(a) *The Deputy Commissioner of Income Tax Circle 1 (4) Bangaluru & Anr. Vs. Sunil Kumar Sharma (Special Leave Petition (Civil) Diary No(s).23406/2024, passed by Hon'ble Supreme Court on 21.10.2024).*

(b) *Deputy Commissioner of Income-tax Vs. Sunil Kumar Sharma (Writ Appeal Nos.830 to 834 of 2022 (T-IT) rendered by Hon'ble High Court of Karnataka on 22.01.2024).*

(c) *Vetrivel Minerals Vs. Assistant Commissioner of Income-tax, Central Circle-2, Madras (W.P. (MD) Nos.11261, 11271, 11272, 11273 & 11765 of 2021, rendered by the Hon'ble High Court of Madras on 03.08.2021.*

(d) *Ishita Varshney Jain Vs. ACIT, Cen Cir-31, Delhi (W.P.(C) 15477/2024 & CM Appl.68370/2024, passed by the Hon'ble High Court of Delhi on 22.11.2024).*

5. On the other hand, learned counsel for the respondent opposes the aforesaid submissions made on behalf of the petitioner.



5.1. Learned counsel submits that the powers conferred by Section 153C of the Act of 1961 is a wide power, and the present is a case where clearly there were inputs on WhatsApp supported by substantial material to incriminate the 'other person', who is the petitioner in the present case.

5.2. Learned counsel further submits that not only the Chats were found to be incriminating, but also the transactions mentioned in the said Chats were actually had taken place and those transactions substantiated the allegations *prima facie* against the present petitioner; still the petitioner could make out his case on factual matrix and put forth his defence, in pursuance of the notice in question.

5.3. Learned counsel also submits that the contention of the assessee that the impugned notice under Section 153C of the Act of 1961 for Assessment Year 2019-20 issued on 16.06.2023 and the assessment proceedings initiated thereupon cannot be quashed, only on the ground that there is no incriminating material found or seized during the search and seizure in question.

5.4. Learned counsel further submits that the impugned notice dated 16.06.2023 had been issued by the respondent-Assistant Commissioner of Income Tax, ACIT Circle-1, Bikaner for the Assessment Year 2019-20 after duly recording his satisfaction note for initiating the assessment proceedings under Section 153C of the Act of 1961. He also submits that the satisfaction recorded by the Assessing Officer clearly mentioned about the transactions, which matched the WhatsApp Chats and images of the documents



discovered from the phones of the Directors and Key Persons of the Om Kothari Group pertaining to the present petitioner.

5.5. Learned counsel further submits that it is not a case where it can be said that the satisfaction so arrived at was based only on the WhatsApp chats, as the figures appearing in the chats are also appearing in the images of pages of unaccounted cash books maintained by key persons and employees of the Group.

5.6. Learned counsel also submits that while the Chats in question specify the plots which are Plots No.3 & 4 against which cash payment has been received, which is corroborative in nature and thus, it is apparent that the present petitioner-Giriraj Pungalia, Proprietor of M/s. Ratan Industries has purchased the plots No.SP 818-(II)-3 & 818-(II)-4 from the Om Kothari Group.

5.7. Learned counsel further submits that the information in question i.e. the WhatsApp Chats and the images of documents, was of specific properties and specific in nature and did not match the returned income of the assessee.

5.8. Learned counsel also submits that even after receiving the impugned notice, the petitioner has ample opportunities to defend himself against such allegations, and if at all he has any substantial defence, he can put forth the same; whereas this Court in the present adjudication might not like to go into the factual matrix, but may consider the case at hand only on the legality of the notice under Section 153C of the Act of 1961.

5.9. Learned counsel further submits that the satisfaction note clearly mentioned the transactions in the WhatsApp chats and



images of the documents found, between the close members of the parties in question, and the properties can be physically verified on the ground and the exchange of such properties is also confirmed and thus, the WhatsApp chats in question stand totally corroborated and defined as far as impugned notice is concerned.

5.10. Learned counsel also submits that the assessment proceedings qua the Assessment Years 2015-16, 2016-17, 2017-18, 2018-19 & 2021-22 were already completed without making any variation in the returned income and it is only in regard to the Assessment Year 2019-20 that the impugned notice has been issued, as there was an evidence directly related to the transactions regarding the two plots in question.

6. Heard learned counsel for the parties as well as perused the record of the case, alongwith the judgments cited at the Bar.

7. At the outset, this Court considers it appropriate to reproduce Section 153C of the Act of 1961, as hereunder:

"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 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 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.

(3) Nothing contained in this section shall apply in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of April, 2021."

8. This Court observes that the stage of Section 153C of the Act of 1961 operates for a person other than the person referred to in Section 153A, as after the books of account or documents or assets are seized in a particular search, the Assessing Officer having jurisdiction shall proceed against such 'other person' and issue notice and assess or reassess the income of 'other person' in accordance with the provisions of Section 153A of the Act of 1961.

9. This Court further observes that the Statute also mandates that the Assessing Officer has to arrive at a satisfaction 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'.



10. This Court also observes that the law itself provides for a safeguard i.e. six assessment years immediately preceding the assessment year relevant to the previous year in which the search is conducted or requisition has been made, which cannot be crossed by the Assessing Officer, and thus, the parameters are in place for connecting a person in the search and seizure in the capacity of 'other person'.

11. In the judgment rendered in ***Ishita Varshney Jain (supra)***, as relied by learned counsel for the petitioner, the Hon'ble Court held that "*neither any books of account nor documents, either belonging to the petitioner or containing information pertaining to the petitioner, were found*". In the said case, the agreement to sell also was between two separate parties and assumptions were vague and erroneous. However, in the present case, it is not the assumptions but the actual plots are determined, and the information pertains to specific plots No. SP 818-(II)-3 & 818-(II)-4, in connection with which sale transaction took place, in pursuance of such information. The value of the properties etc. is also on record. The suggestive values are not the base in the present case. Therefore, the said case law does not apply in the present case.

12. In ***Vetrivel Minerals (supra)*** relied upon on behalf of the petitioner, the Hon'ble Court has laid down that the parameters of Evidence Act, particularly Section 65B thereof, ought to be complied with for reliance for the purpose of conformation to the principles of natural justice. The remand made for non-compliance



of Section 65B of the Evidence Act, which is not the stage of the present case, and thus, the said case law also does not render any assistance to the case of the present petitioner.

13. In ***Sunil Kumar Sharma (supra)***, on which reliance has been placed on behalf of the petitioner, has dealt with loose sheets found in the house of the third party, where it was not established that the loose sheets were to be considered as evidence in law by producing corroborative evidence supported by judgments and findings. In the said case, the statement of the key person under Section 132 of the Act of 1961 itself stood retracted. The loose sheets were not supported by the *panchnama* etc. There was recovery of some cash and thus, any kind of assumption qua cash to sustain the proceedings under Section 153C of the Act of 1961 was very vague and thus set aside in the said case.

14. This Court observes that the law regarding Section 153C of the Act of 1961 has a foundation of the search and seizure impact, the 'other person' and the record of the present case clearly indicates that the WhatsApp chat is completely corroborated, and the said Chat which could be considered to be falling in the *definition of other documents* totally corroborated by the specific transactions which have taken place regarding the assessee viz. petitioner-Giriraj Pungalia, Proprietor of M/s. Ratan Industries who had clearly purchased the plots No.SP 818-(II)-3 & 818-(II)-4 from the Om Kothari Group; such sale and purchase is directly established with specific information in a particular year whereas it has not been shown by the assessee and thus, the power under



Section 153C of the Act of 1961 has been rightly exercised by the respondent in the present case.

15. The persons having the WhatsApp chats were connected with both the companies herein and the transactions were regarding specific plots and the details of cash payment were clearly contained in the WhatsApp chat, thus with such specific inputs, the same cannot be said to be vague or hit by the strict parameters of Section 153C of the Act of 1961.

16. This Court is also conscious of the fact that the ambit of Section 153C was not to restrict the proceedings qua 'other person' arising out of Section 153A (search & seizure), but was only to enable invocation thereof, so that in case any connecting evidence which is specific and to the point, corroborated by proper facts, then the escape may not be made possible for such 'other person'. The law and statute however require strict interpretation as if the information is vague, then the same cannot be made part of the sustaining material for such proceedings, which is not so in the present case.

17. This Court has carefully perused the said inspection note which observes that the search & seizure action conducted on Om Kothari Group on 13.07.2020 by the Investigating Directorate reflected that the present assessee purchased the plots No.SP 818-(II)-3 & 818-(II)-4, situated in VKI Area, Jaipur from M/s. Om Metal Infotech Private Limited (a Group Concern of Om Kothari Group) for which significant amounts were paid in cash outside the books of account.



18. The images in the mobiles, laptops and personal computers were specific and statement of one of the employees was also recorded under Section 131 of the Act of 1961, and the statement included deciphering of unrecorded accounts for transactions, in regard to which, code language was used which reflected as follows:

- 1 File - One lakh Rupees
- 1 Pcs - One 100 gm Gold Bar
- 1 Kg - One lakh Rupees
- 1 Pkt - One lakh Rupees
- 100 g 20 Pc - 2 Kg gold
- 1K 2 Pc/files - 2 Kg gold.

19. This Court also observes that the big size plots in VKI, Jaipur i.e. plots No.SP 818-(II)-3 & 818-(II)-4 were purchased by the petitioner; the unaccounted money paid are reflected in the chats; the purchase of the said plots was also found from the extracted digital data; the on-money etc. are reflected in the WhatsApp chats and images; the unaccounted cash transactions were found as reflected in the pictures; the incriminating chats between the parties in question regarding the unaccounted cash component was clearly reflected; the WhatsApp Chats reflected the details of cash amounting to Rs.48,00,000/- on 08.02.2019; the unaccounted cash of about Rs.52,00,000/-; further cash transactions are also reflected in the satisfaction note. Each WhatsApp Chat with date & separate entries & transactions is



reproduced in the note the following transactions have been noted by the Assessing Officer in the satisfaction note:

S.No.	Plot No.	Date	Amount (In Rs.)
1	3&4	08.02.2019	48,00,000
2	3&4	09.02.2019	52,00,000
3	3&4	14.02.2019	1,10,00,000
4	3&4	14.02.2019	40,00,000
5	3&4	14.02.2019	50,00,000
6	3&4	25.02.2019	60,00,000
7	3&4	27.02.2019	79,52,000
8	3&4	No date	13,10,000
		Total	4,52,62,000

The aforementioned satisfaction note is having satisfactory details for initiation of the proceedings under Section 153C of the Act of 1961.

20. The judgments cited at the Bar on behalf of the petitioner do not render any assistance to his case herein.

21. Thus, in view of the above, this Court does not find it a fit case so as to grant any relief to the petitioner in the instant petition.

22. Consequently, the present petition is **dismissed**. All pending applications stand disposed of.

(CHANDRA PRAKASH SHRIMALI),J (DR.PUSHPENDRA SINGH BHATI),J

3-SKant/-