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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 319/2022

PR. COMMISSIONER OF INCOME  
TAX (CENTRAL)-2

..... Appellant

Through: Mr.Sanjay Kumar, Advocate with  
Ms.Easha Kadian, Advocate.

versus

PANCHMUKHI MANAGEMENT  
SERVICES PVT. LTD.

..... Respondent

Through: Mr. Salil Aggarwal, Sr. Advocate  
with Mr. Madhur Aggarwal,  
Advocate.

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+ ITA 321/2022

PR. COMMISSIONER OF INCOME  
TAX (CENTRAL)-2

..... Appellant

Through: Mr.Sanjay Kumar, Advocate with  
Ms.Easha Kadian, Advocate.

Versus

PANCHMUKHI MANAGEMENT  
SERVICES PVT. LTD.

..... Respondent

Through: Mr. Salil Aggarwal, Sr. Advocate  
with Mr. Madhur Aggarwal,  
Advocate.

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+ ITA 326/2022

PR. COMMISSIONER OF INCOME TAX  
(CENTRAL)-2

..... Appellant

Through: Mr. Sanjay Kumar, Sr. Standing  
Counsel for Revenue with Ms. Easha  
Kadian, Advocate.

versus

PANCHMUKHI MANAGEMENT SERVICES  
PVT. LTD.

..... Respondent

Through: Mr. Salil Aggarwal, Sr. Advocate  
with Mr. Madhur Aggarwal,  
Advocate.

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Date of Decision: 26<sup>th</sup> September, 2022

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**J U D G M E N T**

**MANMOHAN, J (Oral):**

**CM APPL. 39947/2022 in ITA 319/2022**

**CM APPL. 39949/2022 in ITA 321/2022**

**CM APPL. 40148/2022 in ITA 326/2022**

Exemptions allowed, subject to all just exceptions.

Accordingly, present applications stand disposed of.

**ITA 319/2022**

**ITA 321/2022**

**ITA 326/2022**

1. Present income tax appeals have been filed challenging the common order dated 28<sup>th</sup> February, 2022, passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.767/Del/2018 for the Assessment Year 2011-12 ITA 768/Del./2018 for the Assessment Year 2012-13 and ITA 766/Del./2018 for the Assessment Year 2010-11 deleting the protective additions made in the hands of the respondent-assessee.

2. Learned counsel for the appellant states that the ITAT has erred in holding that no incriminating material was found in the search, whereas the original copies of share certificates pertaining to share capital and premium allotted to investor companies were found at the premises of issuing company itself instead of investor company's premises evidencing, that, the investor companies were bogus/accommodation entry providing entities.

3. He emphasises that in the present cases, there is a live link between the additions in question and the incriminating material.

4. *Per contra*, learned senior counsel for the Respondent, who appears on advance notice, states that in the present case the alleged incriminating materials do not pertain to the assessment years in question. In support of his contention, he relies on the satisfaction note dated 29<sup>th</sup> January, 2016 which reads as under:-

***“Satisfaction Note for issue of notice u/s 153C of the Income Tax Act.***

*Name of the assessee: M/s. Panchmukhi Management Services Pvt. Ltd.*

*A.Y : 2008-09 TO 2013-14.*

*PAN : AADCP7635E.*

*Search and seizure action u/s 132 of the Income Tax Act was carried out on 20.09.2013 in the case of Mind Group of cases for A.Ys, 2008-09 to 2013-14*

under Section 153A/143(3). The material seized from the premises of the assessee has been examined by the undersigned being the jurisdictional Assessing Officer. After examining such seized material I am satisfied that the following seized documents belong to persons other than Minda Group of cases. The details of such papers are as under:-

<b>Party No./Annexure No./ Seized from:</b>	<b>Page No. of Annexure</b>	<b>Brief description of documents.</b>	<b>Person to whom the Documents belongs.</b>	<b>F.Y. involved.</b>
O-2/A-4, JAY USHIN LTD. GP-14, Sector 18, Gurgaon	28 to 34	<b>Annual Report of M/s.Panchmukhi Management Services Pvt. Ltd. as on 31.3.2012</b>	M/s. Panchmukhi Management Services Pvt. Ltd.	2011-12
O-2/A-4, JAY USHIN LTD. GP-14, Sector 18, Gurgaon.	35	Details of amount invested by M/s. Panchmukhi Management Services Pvt. Ltd. as on 1.01.2013.	M/s. Panchmukhi Management Services Pvt. Ltd.	2012-13
O-2/A-4, JAY USHIN LTD. GP-14, Sector 18, Gurgaon	70-71	Extract of annual return of M/s. Panchmukhi Management Services Pvt. Ltd. (period not known)	M/s. Panchmukhi Management Services Pvt. Ltd.	
K4/PMEC 3 Rajesh Shiv & Associates, M/s. Panchmukhi Management Services Pvt. Ltd., M/s	1-75	Bank account details from 1.04.2005 to 31.03.2008	M/s. Panchmukhi Management Services Pvt. Ltd.	2007-08

<i>Electricals &amp; electronics (I) Ltd., M/s. Manish Merchants Pvt. Ltd., M.s Consortium Vyapaar Pvt. Ltd., Business Communication Centre, 21 Parsi Charch Street, Opp.18 Erza Street, Kolkata-12</i>				
<i>O-2/A-11, JAY USHIN LTD. GP-14, Sector 18, Gurgaon.</i>	<i>47, 48, 51 to 57, 60, 61, 63 to 72.</i>	<b><i>Original Share certificates dated 9.01.2010 were transferred to M/s. Panchmukhi Management Services Pvt. Ltd. 9.02.2010</i></b>	<i>M/s. Panchmukhi Management Services Pvt. Ltd.</i>	<b><i>2009-10.</i></b>

*I have examined the above mentioned documents/papers and as the undersigned is the jurisdictional assessing officer for Minda Group of search cases (DOS: 20.09.2013), I am satisfied that the provisions of section 153C are invoke able in this case for A.Y.2008-09 to 2013-14. Accordingly this information is being passed to the jurisdictional AO of M/s. Panchmukhi Management Services Pvt. Ltd. For taking necessary action under Section 153C for A.Y.2008-09 to 2013-14. This satisfaction note is placed in the file for record purposes.*

*Sd/-*

*ACIT-CC-13, New Delhi.*

*Dated: 29.01.2016.”*

5. He also states that the genuineness of the share capital has been accepted in the case of JP Minda Group of Companies by the ITAT.
6. A perusal of the paper book reveals that in the present case a satisfaction note was drawn up under Section 153C of the Income Tax Act, 1961, (the 'Act') on 29<sup>th</sup> January, 2016. Consequently, the search year would be the Assessment Year 2016-17 and Revenue would be entitled to re-open the returns for the Assessment Years 2010-11 to 2015-16.
7. Perusal of the satisfaction note reveals that no document pertaining to Assessment Year 2011-12 was seized during search. The Supreme Court in *Commissioner of Income Tax-III, Pune Vs. Sinhgad Technical Education Society reported in [2017] 397 ITR 344* has held that seized material can be considered to be incriminating in terms of Section 153C of the Act only if the said material pertains to the Assessment Years in question.
8. With respect to Assessment Years 2010-11 & 2012-13, this Court is of the view that the recovery of the annual report and the share certificate of the Petitioner from premises of Minda Group cannot be considered to be incriminating documents. After all, the Minda Group was not a third party but the issuing authority of the share certificates. In fact, both the appellate authorities below have given a concurrent finding that no incriminating material had been brought on record by the Assessing Officer to sustain the additions on merit. Also, the genuineness of the share capital has been accepted both by CIT (A) and ITAT and also there is no live link between seized material and the additions made. Therefore, this Court is of the view that assumption of jurisdiction in the present cases by the Assessing Officer was erroneous.

9. Further, today, this Court by a separate order in a batch of appeals being ITA Nos.360-368/2022 has upheld the order of the ITAT deleting the substantive additions on merits made in different concerns of JP Minda Group. Consequently, the issue of protective addition in the hand of the respondent-assessee does not arise.

10. Accordingly, this Court is of the view that no substantial question of law arises for consideration in the present appeals and the same are dismissed.

**MANMOHAN, J**

**MANMEET PRITAM SINGH ARORA, J**

**SEPTEMBER 26, 2022**  
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