

DHC in Rajesh Kumar has upheld ITAT order wherein albeit reference for Special Audit was vitiated by principle of Natural Justice (as held by SC in its own case and affirmed by Larger Bench of SC in Sahara), but in light of Larger Bench ruling in Sahara, ratio of Rajesh Kumar (SC RULING on Sec 142(2A) and Sahara case) will not apply to instant case as SC in Sahara case has itself held that:

"Accordingly, we hold that the law on the subject, clarified by us, will apply prospectively and it will not be open to the appellants to urge before the appellate authority that the extended period of limitation under Explanation 1(iii) to section 153(3) of the Act was not available to the Assessing Officer because of an invalid order under section 142(2A) of the Act. However, it will be open to the appellants to question before the appellate authority, if so advised, the correctness of the material gathered on the basis of the audit report submitted under subsection (2A) of section 142 of the Act."