

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA Nos. 4487 to 4489/Del/2019
Assessment Years: 2010-11 to 2012-13**

JCIT,
Spl. Range-12,
806, 8th Floor, E-2 Block,
Dr. SPM Civic Centre,
New Delhi-110002
(Appellant)

Versus Sh. Pawan Kumar Agarwal,
Prop:M/s Supreme Gold
A4/2, UGF Rana Pratap Bagh,
New Delhi-110007
PAN:ADUPA9815A
(Respondent)

Appellant by : Sh. N.C. Swain, CIT-DR
Respondent by : Sh. Satish Agarwal, CA &
Sh. Dharender Kumar, CA

Date of hearing : 15.06.2022
Date of order : 27.06.2022

ORDER

PER N.K. CHOUDHRY, J.M.

The Revenue has preferred the instant appeals under consideration against the consolidated order dated 19.12.2018 impugned herein passed by the Ld. Commissioner of Income Tax (Appeals)-12, New Delhi (in short 'Ld. Commissioner' u/s 250 of the Income Tax Act 1961 (in short 'the Act) for the Assessment Years 2010-11 to 2012-13.

2. As the issues and facts involved in all the three appeals are identical, therefore, for the sake of brevity, we are disposing of the same by this Composite order.

3. Brief facts relevant for adjudication in the instant appeals are that a search and survey was conducted at the business premises of the Assessee, wherefrom certain cash was found and seized. Thereafter, the assessment orders were made u/s 153A/143(3) of the Act dated 31.12.2017, against which the assessee preferred first appeal before the Ld. CIT(A), who vide composite order dated 19.12.2018 allowed the appeals of the assessee and deleted the additions/disallowances made by the Assessing Officer by concluding as under:-

10.14. The jurisdictional High Court is clear on the point that the assessment cannot be arbitrary or made without any relevant or nexus with the seized material. The completed assessments can be reiterated in the absence of any incriminating material and the assessments or reassessments can be made in respect of abated assessments. Completed assessments can be interfered with by the AO while making the assessments u/s 153A only on the basis of some incriminating material unearthed during the course of search or requisition of document or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessments.

10.15 Further, the jurisdictional High Court has followed the above decision in the case of Pr. CTT vs. Meeta Gutgutia Prop. M/s Ferns 'N' Petals 395 ITR 526 (Del). The Appellant has informed me that the Hon'ble Supreme Court has not admitted

SLP of the department against the judgment of the jurisdictional Delhi High Court in the case of Meeta Gutgutia (supra), in view of which the judgment passed by the Delhi High Court has attained finality.

10.16 In view of the above facts and the decisions of the jurisdictional High Court, I hold that the additions / disallowances made by the AO in the impugned Assessment Orders are not sustainable in the eyes of law. Therefore, the additions / disallowances are deleted.”

4. Against the impugned order, the Revenue department has preferred the instant appeals.

5. Heard the parties and perused the material available on record. We observe that admittedly in the instant case, the Assessing Officer made the additions on the basis of entries in the regular books of accounts on the ground that the assessee could not furnish the details of expenses and also failed to produce the bills and vouchers. There was no incriminating material found during the course of search and seizure action and therefore, the Id. Commissioner while respectfully following the judgment of jurisdictional High Court in the case of CIT vs Kabul Chawla (Supra) , which was subsequently followed by the jurisdictional High Court itself in the case of PCIT vs Meeta Gutgutia (supra) , deleted the additions/disallowances by allowing the appeal of the Assessee hence, there is no perversity, impropriety and/or illegality in the order passed by the Ld. CIT(A).

6. In the result, all the appeals filed by the Revenue stands dismissed.

Order pronounced in the open court on 27/06/2022.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

Shekhar,