

**IN THE INCOME TAX APPELLATE TRIBUNAL "B"**  
**BENCH CHANDIGARH**

**Before Shri Sanjay Garg, Judicial Member &  
Shri Vikram Singh Yadav, Accountant Member**

**I.T.A. No.99/CHANDI/2020**

Assessment Year: 2010-11

**The ACIT, Central Circle-2, Chandigarh**

..... **Appellant**

**vs.**

**Shri Subash Goyal  
Plot No.29, Sector-1,  
Parwanoo, Chandigarh.  
[PAN:ADIPG7403J]**

..... **Respondent**

**Appearances by:**

Shri Sarabjeet Singh, CIT, DR, appeared on behalf of the appellant.  
Shri T.N. Singla, CA, appeared on behalf of the Respondent.

Date of concluding the hearing :      October 27, 2022

Date of pronouncing the order :      December 30, 2022

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the Revenue against the order dated 20.11.2019 of the Commissioner of Income Tax (Appeals), Gurgaon [hereinafter referred to as 'CIT(A)'] passed u/s 153A(1)(b)/143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. The Revenue is aggrieved by the action of the CIT(A) in deleting the additions made by the AO in the assessment framed u/s 143(3) read with Section 153A of the Act.

3. The brief facts of the case are that a search and seizure was conducted at the premises of the assessee u/s 132 of the Act. Thereafter the assessment was framed for six assessment years prior to the date of search u/s 153A of the Act. The Ld. CIT(A) deleted the addition vide common order dated 20.11.2019 passed in assessee's appeal relating to assessment years 2010-11, 2011-12, 2013-14 and 2014-15 on the ground that no incriminating material was found during the search action and that as per the settled law in the case of completed assessment (not abated) on the date of search, in the absence of any incriminating material found during the search action, no additions can be made in an assessment framed u/s 153A of the Act of Act. The Ld. CIT(A) in this respect has relied on the various judicial decisions including the decision of the Hon'ble Bombay High Court in the case of "All Cargo Global Logistics Ltd." 120 DTR 89 and of the Delhi High Court in the case of "CIT Vs. Kabul Chawla" 234 Taxman 300 ( Delhi) and in "Principal CIT Vs. Meeta Gutgutia Prop M/s Ferns 'N' Petals", ITA 306/2017 and others decided vide order dated 25.5.2017.

4. The ld. DR has been fair enough to admit that the additions in this case have not been made on the basis of any incriminating material found during the search action at the premises of the assessee. He has also not disputed that the original assessments for the assessment year under consideration stood completed and not abated as on the date of search i.e.

10.08.2006 and also on the date of subsequent issue of notice u/s 153A of the Act. However, he has relied on the decision of the Hon'ble Allahabad High Court in the case of 'CIT (Central), Kanpur Vs. Sri Raj Kumar Arora, I.T. Appeal No. 56 of 2011 vide order dated 11.07.2014, wherein, the Hon'ble High Court has held that it is open to the AO to assess / reassess the income of the assessee u/s 153A of the Act even bereft of any incriminating material.

5. We have heard the rival submissions and perused the material on record. We find that the issue is squarely covered in favour of the assessee by the decision of the Hon'ble Delhi High Court in the case of CIT Vs Kabul Chawla (2016) 380 ITR 573 (Del) followed by the Hon'ble Gujrat High Court in the case of PCIT Vs RSA Digi Prints 2017 (9) TMI 530. Reliance in this respect can also be placed upon decision of Hon'ble Bombay High Court in the case of CIT Vs Continental Warehousing Corporation (2015) 374 ITR 645 (Bom.), decision of Hon'ble Calcutta High Court in the case of PCIT Vs Salasor Stock Broking Ltd. 2016 (8) TMI 1131 and decision of Hon'ble Delhi High Court in the case of 'Principal CIT Vs. Meeta Gutgutia Prop M/s Ferns 'N' Petals', ITA 306/2017 and others decided vide order dated 25.5.2017 wherein the Hon'ble High Courts have been unanimous to hold that in relation to the assessments which have already been concluded, the AO is precluded from making additions on any other issue except relating or concerning to the

incriminating material found during the search action. The Assessing Officer cannot disturb the assessment order or reassessment order which has attained finality, unless the material gathered in the course of proceedings u/s 153A of the Act establishes that relief granted under the final assessment/reassessment was contrary to the fact unearthed during the course of 153A proceedings.

The proposition laid down in aforesaid case laws can be well applied to the present case. In view of this, we do not find any justification on the part of the Assessing Officer for making the impugned addition in the already concluded assessments in the case of the assessee. Therefore, the impugned additions are ordered to be deleted.

In the result, the appeal of the Revenue stands dismissed.

***Chandigarh, the 30<sup>th</sup> December, 2022.***

Sd./-  
**[Shri Vikram Singh Yadav]**  
**Accountant Member**

Sd/-  
**[Sanjay Garg]**  
**Judicial Member**

Dated: 30.12.2022.

Rs. / rkk

*Copy of the order forwarded to:*

1. ACIT, Central Circle-2, Chandigarh
2. Shri Subash Goyal
3. CIT(A)-
4. CIT- ,
5. CIT(DR), ITAT, Chandigarh

*//True copy//*

By order  
Assistant Registrar