

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.4058/Del/2019  
Assessment Year: 2010-11

<b>ACIT Central Circle – 19 New Delhi</b>	<b>Vs</b>	<b>Som Nath Aggarwal D-603, Jhule Lal Apartments, Road No.44, Pitampura, New Delhi PAN No.AAKPA9546M</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Ms. Rishpal Bedi, CIT DR
Respondent by	Sh. V.K. Bindal, CA Sh. Saurabh Sharma, Advocate Ms. Rinky Sharma, IT

Date of hearing:	30/05/2023
Date of Pronouncement:	30/05/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-24, New Delhi dated 28.02.2019 pertaining to A.Y. 2010-11.

2. The grievance of the revenue reads as under :-

1) *The Ld. CIT(A) has erred in law in relying on the ratio held in CIT (Central-III) vs. Kabul Chawla 380 ITR 573 (Del) and PCIT (Central-II), New Delhi vs. Meeta Gutgutia 390 ITR 496 (Del) and in holding that completed assessment could not be interfered by the AO without incriminating material. On the contrary, for making the*

*assessment u/s 153 A of the Act, 1961, the Act does not stipulates any such conditionality on A.O.*

2) *Whether Ld. CIT(A) has erred in law by relying on the ratio held in CIT (Central-III) vs. Kabul Chawla 380 ITR 573 (Del) and PCIT (Central-II), New Delhi vs. Meeta Gutgutia 390 ITR 496 (Del) and deleting following additions on this ground:-*

- |      |  |                          |
|------|--|--------------------------|
| (i)  | <i>addition on account of bogus unsecured loan</i>           | <i>Rs.10,00,00,000/-</i> |
| (ii) | <i>Disallowance of interest paid on bogus unsecured loan</i> | <i>Rs.9,20,000/-</i>     |

3) *(a) The order of the CIT( Appeals) is erroneous and not tenable in law and on facts.*

*(b) The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.*

3. A perusal of the grounds mentioned here in above show that the CIT(A) has allowed the appeal of the assessee following the ratio laid down by the Hon'ble Delhi High Court in the case of Kabul Chawla 380 ITR 573.

4. The impugned quarrel has now been well settled by the Hon'ble Supreme court in the case of Abhisar Buildwell P. Ltd. alongwith bunch of appeals in Civil Appeal No.6580 of 2021. The relevant findings of the Hon'ble Supreme court read as under :-

*13. "For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in the case of Kabul Chawla (supra) and the Gujarat High Court in the case of Saumya Construction (supra) and the decisions of the other High*

*Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material.*

*14. In view of the above and for the reasons stated above, it is concluded as under:*

- i) that in case of search under Section 132 or requisition under Section 132A, the AO assumes the jurisdiction for block assessment under section 153A;*
- ii) all pending assessments/reassessments shall stand abated;*
- iii) in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and in case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132A of the Act, 1961. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under Sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under sections 147/148 of the Act and those powers are saved.*

*The question involved in the present set of appeals and review petition is answered accordingly in terms of the above and the appeals and review petition preferred by the Revenue are hereby dismissed. No costs."*

5. In the light of the aforementioned decisions we do not find any reason to interfere with the findings of the CIT(A) the appeal filed by the revenue is accordingly dismissed.

6. Decision announced in the open court on 30.05.2023.

Sd/-  
**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: .05.2023

\*Neha\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Asst. Registrar  
ITAT, New Delhi