

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 60/Asr/2023**  
Assessment Year: 2013-14

Shri Salil Bhatia 26, The Mall, Amritsar Punjab-143001  PAN: ABBPB8720E	The ACIT Central Circle, Amritsar
<b>(Appellant)</b>	<b>(Respondent)</b>

Appellant by            Shri. Vipul Arora, CA

Respondent by        Shri Rohit Mehra, CIT DR

Date of Hearing        : 30/05/2023  
Date of Pronouncement : 13/06/2023

**ORDER**

**Per Dr. M. L. Meena, AM:**

The captioned appeal is filed by the assessee against the order of the learned Commissioner of income tax appeals-5, Ludhiana dated 25.05.2021 which is arising out of the assessment order passed by the assistant Commissioner of income tax Central circle under section 153A read with section 143(3) of the income tax act, in respect of the assessment year 2013–14, challenging the validity of the Assessment order.

2. At the outset, the learned counsel for the assessee submitted that the learned CIT appeal has erred in not appreciating the facts of the case that in the cases of requisition under section 132A read with section 153A, no addition could be made without having any incriminating documents found during the course of search/requisition. The learned counsel contended that in the present case, there were no incriminating documents found during action under section 132A, of the income tax act, 1961. During the course of assessment proceedings, the AO received certain information from the investigation wing, and consequently, he raised the issue of long-term capital gains on the sale of shares in the case of assessee. He contended that in view of the principle laid down by the Honorable Supreme Court of India, in the recent judgement, in the case of "PCIT, central-3 vs, Abhisar Buildwell Private Limited, [2023] 149, Texmann.com 399, no addition can be made by the AO, in the absence of any incriminating document found during the course of search under section 132 or requisition under section 132A of the act, 1961. Accordingly, he pleaded that the addition may be deleted, holding the Assessment Order as invalid and the impugned order passed by the CIT appeal as void ab initio.

3. Per contra, the learned CIT, DR stands by the impugned order. However, he could not file any citation, in rebuttal to the contention of the Counsel.

4. We have heard the rival contentions, perused the material on record, the impugned orders, and case law cited before us. Admittedly, it is not disputed that the department did not found any incriminating material

against the appellant assessee, during the course of search under section 132 or requisition u/s 132A of the Act. Therefore, the observation of learned CIT appeal that there is no prerequisite of incriminating material to be found during the search for initiating assessment proceedings under section 153A while confirming the action of the AO are in contravention to the principle of law laid down by the Honorable Apex Court in the case of “Abhisar Buildwell Private Limited”, (Supra). Meaning thereby, the assessment stood completed without reference of any incriminating material would deserves to be quashed in view of the principle laid down by the Honorable Apex Court (Supra).

5. In the above view, we hold the decision of the learned CIT appeal as infirm and bad in law. As such, impugned order is quashed.

6. In the result, the appeal is allowed.

*Order pronounced in the open court on 13 /06/2023*

Sd/-

**(Anikesh Banerjee)**  
**Judicial Member**

Sd/-

**(Dr. M. L. Meena)**  
**Accountant Member**

A.G

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT(A)
- (5) The DR, I.T.A.T.