

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

**Before Dr. B. R. R. Kumar, Accountant Member
Sh. Yogesh Kumar US, Judicial Member**

ITA No. 7955/Del/2019 : Asstt. Year: 2011-12

Rahul Agarwal, 1241, FF, Kucha Bagh, Chandni Chowk, New Delhi-110006 (APPELLANT)	Vs.	ACIT, Circle-46(1), New Delhi-110002 (RESPONDENT)
PAN No. AGCPA0708P		

**Assessee by : Sh. Salil Agarwal, Adv.
Revenue by : Ms. Indu Bala Saini, Sr. DR**

Date of Hearing: 14.06.2023	Date of Pronouncement: 20.06.2023
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-16, New Delhi dated 26.07.2019.

2. In this case,

- The assessee filed return of income on 12.08.2011 declaring total income of Rs.28,81,392/-.
- A search & seizure action has been conducted on the assessee on 02.09.2011.
- The assessment has been completed u/s 153A on 27.03.2014 owing to search & seizure action.
- The AO recorded satisfaction on 17.07.2018 wherein it has been mentioned that in this case a return of income was filed for the year under consideration but no scrutiny

assessment u/s 143(3) of the Act was made. The reasons recorded on 17.07.2018 are as under:

"5. In this case a return of income was filed for the year under consideration but no scrutiny assessment u/s 143(3) of the Act was made. Accordingly, in this case, the only requirement to initiate proceeding u/s 147 is reason to believe which has been recorded above."

3. Since, it is an abated assessment, the assessment would also include seized material and also any other information available to the revenue leading to complete scrutiny assessment. This goes to prove that the Assessing Officer has not verified the history of the case that the Assessment Year in question was an abated assessment pertaining to one year prior to the search year wherein the assessment u/s 153A has been completed and hence the satisfaction recorded on wrong facts cannot be held to be legally valid and consequently, the assessment completed is *void ab initio*.

4. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 20/06/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 20/06/2023

Subodh Kumar, Sr. PS

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1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR