

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI
BEFORE,
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.8434/Del/2019
(ASSESSMENT YEAR 2012-13)**

ACIT Central Circle-1 New CGO Complex B-Block, 3 rd Floor, NH-IV, Faridabad Haryana	Vs.	Prem Singla 31 Punjabi Bagh, West Avenue, New Delhi PAN-AIQPS5087D
(Appellant)		(Respondent)

**ITA No.8432/Del/2019
(ASSESSMENT YEAR 2012-13)**

ACIT Central Circle-1 New CGO Complex B-Block, 3 rd Floor, NH-IV, Faridabad Haryana	Vs.	Rajeev Singla 31, West Avenue Road, Punjabi Bagh, New Delhi PAN-ABIPS5191H
(Appellant)		(Respondent)

**ITA No.8436/Del/2019
(ASSESSMENT YEAR 2012-13)**

ACIT Central Circle-1 New CGO Complex B-Block, 3 rd Floor, NH-IV, Faridabad Haryana	Vs.	Pankaj Singla 31, West Avenue Road, Punjabi Bagh, New Delhi PAN-AVMPS4481L
(Appellant)		(Respondent)

Appellant by	Sh. G. C. Srivastava, Adv
Respondent by	Sh. Sanjay Gupta, CIT, DR

Date of Hearing	24/08/2023
Date of Pronouncement	25/08/2023

ORDER**PER BENCH:**

The above three Appeals filed by the Revenue against the orders of Learned Commissioner of Income Tax (Appeals)- 3, Gurgaon, [Ld. CIT(A)", for short], dated 14/08/2019, for the Assessment Year 2013-14 pertaining to three different Assesseees. Since, the issues involved in all these appeals are common in nature; hence, they are clubbed together heard together and disposed off by this common and consolidate order for the sake of convenience.

2. When the Appeals are taken up for hearing, the Assessee's Representative placed the judgment of the Hon'ble Supreme Court in the case of Pr. Commissioner of Income Tax, Central Circle-3, Vs. Abhisar Build well Pvt. Ltd. in Civil Appeal No. 6580//2021 and other connected mattes and submitted the additions made in the case of all the three assessee's for the Assessment Year 2013-14 are not emanating out of incriminating material found during the search proceedings nor any proceedings were pending or abated on the date of search. Therefore, in view of the ratio laid down by the Hon'ble Supreme Court, the present Appeals are deserves to be dismissed.

3. The Ld. Departmental Representative has also not disputed the contention of the Assesseees' Representative and fairly submitted that the issue is covered against the Revenue in the judgment of Hon'ble Supreme Court in the case of Abhisar Build Well Pvt. Ltd. (Supra).

4. We have heard the parties, perused the material. The Hon'ble Supreme Court in the case of Pr. Commissioner of Income Tax, Central Circle-3, Vs. Abhisar Build well Pvt. Ltd. in Civil Appeal No. 6580/2021 vide Judgment dated 24/04/2023 has held as under:-

"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

iv) 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."

By respectfully following the ratio laid down in the case of Abhisar Build Well (supra) by the Hon'ble Supreme Court, considering the fact that as the A.O. made addition u/s 153A of the Act when no incriminating documents/material or undisclosed income belonging to the Assesseees were found during the search operations for the year under consideration against the Assesseees, in our opinion, the Ld. CIT(A) has committed no error in deleting the addition and find no merit in the Grounds of Appeal of the Revenue. Accordingly, the Revenue's Grounds of Appeal of all the three appeals are dismissed.

5. In the result, Appeal of the Revenue in ITA No. 8434/Del/2019, ITA No. 8432/Del/2019 and ITA No. 8436/Del/2019 for A.Y 2012-13 are dismissed.

Order pronounced in open Court on 25th August, 2023.

Sd/-

(SHAMIM YAHYA)

ACCOUNTANT MEMBER

Dated: 25/08/2023

R.N, Sr. ps

Sd/-

(YOGESH KUMAR U.S.)

JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

