

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'B': NEW DELHI)**

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

**ITA Nos:- 576, 577 & 578/Del/2018
(Assessment Years: 2007-08, 2008-09 & 2009-10)**

Asstt. Commissioner of Income Tax, Circle 5(2), New Delhi.	Vs.	M/s C.P. & Associates Pvt. Ltd., Gokul Bhavan, 2 nd Floor, Lane No. 4, New Delhi-110030.
PAN No: AABCC6596R		
APPELLANT		RESPONDENT

Revenue by : Shri T James Singson, CIT(DR)
Assessee by : Shri Gautam Jain, Adv.

Date of Hearing : 04.09.2023
Date of Pronouncement : 06.09.2023

ORDER

PER N.K. BILLAIYA, AM

ITA Nos.- 576/Del/2018, 577/Del/2018 and 578/Del/2018 are three separate appeals by the Revenue preferred against three separate orders of the CIT(A)-2, New Delhi, dated 18.10.2017 pertaining to AYs 2007-08, 2008-09 and 2009-10. Since common issues are involved in the captioned appeals, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

2. The common grievance relates to the deletion of the addition made by the AO on account of share application money received during the year, though quantum may differ.

3. Briefly stated the facts of the case are that a search and seizure operation was conducted at the business and residential premises of M/s KGK Infrastructure and Developers Pvt. Ltd. on 06.05.2010. Various incriminating materials were found and seized on the basis of search material. Notice U/s 153C of the Act was issued in the case of the assessee on 20.03.2014, whereas the assessee had filed return of income for the impugned assessment order on 24.10.2007, 27.09.2008 and 28.03.2011 respectively. Considering the assumption of jurisdiction U/s 153C of the Act by recording the satisfaction the date of search in the case of the assessee (being a person other than the searched person) the date of search would be 20.03.2014 and considering the date of return filed for the impugned assessment orders it can be safely considered that the impugned assessment are unabated assessment. Therefore, the assessment framed U/s 153C of the Act must have a direct bearing with the incriminating material found at the time of search.

4. A perusal of the impugned assessment orders show that the additions made by the AO are devoid of any incriminating materials, therefore, the ratio laid down by the Hon'ble Jurisdictional High Court of Delhi in the case of Kabul Chawla 380 ITR 573 squarely apply which have been affirmed by the Hon'ble Supreme Court in the case of Abhisar Buildwell (P) Ltd. 454 IT 212 and M/s U.K. Paints (Overseas) Ltd. 454 ITR 441.

4.1 Since CIT(A) has followed the aforementioned binding decisions, we do not find any reason to interfere in the finding of the CIT(A). The captioned appeals filed by the Revenue are dismissed.

5. In the result, appeals are dismissed.

Order pronounced in the Open Court on 06.09.2023

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Dated: 06/09/2023.
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	04,09,2023
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	