THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCHES : NAGPUR

(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

SHRI GD PADMAHSHALI, ACCOUNTANT MEMBER

ITA.Nos.125 & 126/Nag./2018
Assessment Years: 2011-12 & 2012-2013

Deputy Commissioner Of Income Tax Central Circle-2(2), Nagpur	vs.	**M/s. Ramsons Ispat Limited** 1st Floor, Ramsons, 46, Humpyard Road, Dhanoli, Nagpur-440018
PAN: AAACR6144H		
(Appellant)		(Respondent)

For Assessee :	Shri Mukesh Agrawal, CA
For Revenue :	Shri Kailash Kanojiya, Sr.DR

Date of Hearing :	29.08.2023
Date of Pronouncement :	22.09.2023

ORDER

PER BENCH:

These Revenue's twin appeals ITA Nos. 125 & 126/Nag./2018 for A.Ys. 2011-12 & 2012-13, arise against the CIT(A)-3, Nagpur's as many orders; both dated 26.03.2018, passed in Case Nos.CIT(A)-3/137/2017-18 & CIT(A)-3/138/2017-18; respectively, in proceedings under section 143(3) r.w.s. 153A of the Income Tax Act, 1961 ["In short Act"].

2. Heard both the parties at length. Case file perused.

3. The Revenue's former appeal ITA No.125/Nag./2018 raises the following substantive grounds:

> *"a) On the facts and circumstances of the case, the Ld.CIT(A) erred in deleting the addition of Rs. 10,65,47,040/- made by the AC by treating the capital gains on sale of land as business income, without going into the merits of the case.*
>
> *b) On the facts and circumstances of the case, the Ld.CIT(A) erred in holding that the AO has not relied upon any incriminating material found during*

search, whereas the entire extent of transactions in land of the whole group came to light only on account of incriminating documents found during the search action.

c) On the facts and circumstances of the case, the Ld.CIT(A) was correct in holding that during assessment u/s.153A r.ws.143(3), it was not open to the AO to made additions without existence of any incriminating documents found and seized during the search U/s.132(1) overlooking the crucial fact that the original return filed by the assessee was only processed u/s. 143(1) and no scrutiny assessment was made earlier?

d) On the facts and circumstances of the case, the Ld.CIT(A) is correct in holding that the scope of section 153A is limited to assessing only search related income, thereby denying Revenue the opportunity of taxing other escaped income that comes to the notice of the AO?

e) On the facts and circumstances of the case, the Ld.CIT(A) is correct in limiting the scope of section 153A only to undisclosed income when as per the section, the AO has to assess or re-assess the total income of the six assessment years.

f) On the facts and circumstances of the case, the Ld. CIT(A) failed to appreciate that the word incriminating is neither used in section 153A nor defined in the statute and therefore, deletion of addition on this account is not in consonance of law.

g) On the facts and circumstances of the case, the Ld. CIT(A) failed to appreciate original return was processed u/s.143(1) leaving no scope for the Assessing Officer to make addition on account of treatment of transactions in land as business activity."

4. Its latter appeal ITA No.126/Nag./2018 also pleads identical grounds only as the only exception is regarding the quantum of impugned addition involved reading a sum of Rs.16058230/-. It is further an admitted fact that both these cases arise from the departmental search action dated 17.11.2015 carried out in assessee's case.

5. We note in this identical factual backdrop that the CIT(A) has termed both the impugned assessments as not sustainable in law in absence of any incriminating material found or seized during the course of the above stated search. We make it clear that both these cases involve "unabated" assessments u/s. 153A of the Act as on the date of search dated 17.11.2015. And that this is not the Revenue's case in its pleadings that it had indeed come across any incriminating material forming the basis of the impugned additions in both these assessment years. That being the case, we are of the view that the instant legal issue is hardly res integra any more since settled in hon'ble apex court against the department in PCIT vs.

Abhisar Buildwell Pvt. Ltd. [2023] 149 taxmann.com 399 (SC). Faced with this situation, we reject the Revenue's vehement contentions raised through the learned CIT(DR) in light of its foregoing pleadings. Ordered accordingly.

All other issues on merits in both these case stand rendered academic.

6. These Revenue's twin appeals ITA Nos. 125 & 126/Nag./2018 are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 22.09.2023

Sd/-	**Sd/-**
[GD PADMAHSHALI]	[SATBEER SINGH GODARA]
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Pune, Dated 22.09.2023
S.K.SINHA

True Copy

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1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

Assistant Registrar,
ITAT, Pune Benches, Pune.