

**Income Tax Appellate Tribunal  
Delhi Bench "G": New Delhi  
Before Shri M. Balaganesh, Accountant Member  
and  
Shri Anubhav Sharma, Judicial Member**

ITA Nos. 1557, 1558 & 1559/Del/2023  
(Assessment Years: 2014-15 to 2016-17)

Sushil Singla, C/o. Plot No. 413, Sector-9, Faridabad, Haryana (Appellant)	Vs. DCIT, Central Circle-II, Faridabad
<b>PAN: AKTPK8655J</b>	(Respondent)

Assessee by :	Shri Somil Agarwal, Adv Dr. Rakesh Gupta, Adv
Revenue by:	Shri N. G. Joseph Gangte, CIT DR
Date of Hearing	05/10/2023
Date of pronouncement	10/10/2023

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No. 1557, 1558 & 1559/Del/2023 for AYs 2014-15 to 2016-17, arises out of the order of the Commissioner of Income Tax (Appeals)-3, Gurgaon [hereinafter referred to as 'ld. CIT(A)', in short] dated 22.03.2023 against the order of assessment passed u/s 153A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 03.06.2021 by the Assessing Officer, DCIT, Central Circle-II, Faridabad (hereinafter referred to as 'ld. AO').
2. All these appeals are having identical issues and hence, taken up together and disposed of by this common order for the sake of convenience. The only core issue to be decided in this appeal is as to whether the addition towards cash deposits made in the bank account in the sums of Rs. 45,000/-, Rs. 2 lac and Rs. 1,50,000/- could be made in the hands of the assessee for AY 2014-15, 2015-16 and 2016-17

respectively in the absence of incriminating material found during the course of search in respect of unabated assessment.

3. We have heard the rival submissions and perused the materials available on record. The assessee has filed the original return of income for the AY 2014-15 on 17.07.2014, for AY 2015-16 on 13.08.2015 and for AY 2016-17 on 19.07.2016. A search and seizure operation was carried out in the premises of the assessee on 06.06.2018. As on the date of search no proceeding for AY 2014-15, 2015-16 and 2016-17 were pending and hence, these three assessments become unabated assessments. The time limit for issuance of notice u/s 143(2) of the Act had already expired for aforesaid three assessments as on the date of search. Hence, as per section 153A of the Act, unabated assessment already concluded for AY 2014-15, 2015-16 and 2016-17 u/s 143(1) of the Act cannot be justified unless there is any incriminating material found during the course of search qua the addition made towards cash deposits in the bank account. We find that the Id AO in the search assessment u/s 143(1) of the Act for the aforesaid years had merely examined the bank account maintained by the assessee with UBI and had resorted to make addition towards cash deposit made in the said bank account. Admittedly this bank account disclosed bank account of the assessee and was not found during the course of search. Moreover, the Id AO while making an addition towards cash deposit in the bank account had not referred to any seized document in the assessment order. Hence, it could be safely concluded that the addition made towards cash deposit in bank account were made recuperation of any incriminating material found during the course of search. This issue is no longer res integra in view of the decision of the Hon'ble Supreme Court in the case of PCIT Vs. Abhisar Buildwell P. Ltd reported in 454 ITR 212 (SC) where it had been categorically held that in respect completed assessment/unabated assessments no addition can be made by AO in absence of any incriminating material found during the course

of search u/s 132 or 132A of the Act. Respectfully, following the said decision the grounds raised by the assessee are allowed.

4. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 10/10/2023.

-Sd/-  
**(Anubhav Sharma)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated:10/10/2023  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi