

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI  
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1560/Del/2023  
(Assessment Year: 2014-15)**

Shri Rajesh Singla, Plot No. 413, Sector-9, Faridabad-121006 (Appellant)	Vs. DCIT, Central Circle-11, Faridabad (Respondent)
<b>PAN: AJXPS4378R</b>	

Assessee by :	Shri Deepesh Garg, Adv
Revenue by:	Shri Dharambir Singh, CIT DR

Date of Hearing	10/04/2024
Date of pronouncement	16/04/2024

O R D E R

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

1. The appeal in ITA No.1560/Del/2023 for AY 2014-15, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-3, Gurgaon [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 10687/CIT(A)-3/GGN/2013-14 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 26.04.2021 by the Assessing Officer, DCIT, Central Circle-II, Faridabad (hereinafter referred to as 'Id. AO').

2. We find that the assessee had raised a preliminary legal ground challenging the action of the Id. CIT(A) in confirming the additions made by the Id. AO in respect of completed assessment on the date of search without the existence of any incriminating material found during the course of search.

3. We have heard the rival submissions and perused the materials available on record.

4. The original return of income for the Asst Year 2014-15 was filed by the assessee u/s 139(1) of the Act on 18.7.2014. No assessment was framed on the said return. The time limit for issuance of notice u/s 143(2) of the Act expired on 30.9.2015. A search and seizure operation was carried out u/s 132 of the Act on the assessee on 06.06.2018. Hence as on the date of search, the assessment for the Asst Year 2014-15 was a concluded / completed / unabated assessment. In response to notice u/s 153A of the Act, the assessee declared income of Rs 5,31,680/- in the return. The search assessment was completed by the Id. AO u/s 153A of the Act on 26.04.2021 determining total income at Rs 6,46,660/- after making an addition of Rs 1,15,000/- u/s 68 of the Act in respect of cash deposits made in bank account. This action of the Id. AO was upheld by the Id. CIT(A). The Id. AR before us vehemently pleaded that there is absolutely no incriminating material found during the course of search qua this addition towards cash deposits and hence the said addition cannot be made in a completed assessment. It is not in dispute that there is no mention of any incriminating document found during the course of search by the Id. AO while framing this addition on account of cash deposits. This issue is no longer res integra in view of the recent decision of the Hon'ble Supreme Court in the case of PCIT vs Abhisar Buildwell P Ltd reported in 454 ITR 212 (SC) and PCIT vs Jay Ambey Aromatics reported in 296 Taxman 475 (SC), wherein it was categorically held that where assessment of assessee had attained finality prior to date of search and no incriminating documents or materials had been found and seized at time of search, no addition could be made under section 153A as case of assessee was of non-abated assessment. Respectfully following the same, the addition made in

the sum of Rs 1,15,000/- is hereby directed to be deleted and grounds raised by the assessee are allowed on this legal issue. Since relief is granted on legal issue, no opinion is hereby given on the merits of the addition and it is left open.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 16/04/2024.

-Sd/-  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

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

Dated:16/04/2024  
A K Keot

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

ASSISTANT REGISTRAR  
ITAT, New Delhi