

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

**ITA No. 5732/Del/2018 (A.Y 2011-12)**

**ITA No. 5733/Del/2018 (A.Y 2012-13)**

ACIT Central Circle-II Gurgaon, Haryana	Vs.	Krishan Kant Kohli F-8, Okhla Industrial Area, Phase-1, New Delhi <b>PAN No:AALPK4611N</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**C.O No. 196/Del/2018 (A.Y 2011-12 in ITA No. 5732/Del/2018)**

**C.O No. 197/Del/2018 (A.Y 2012-13 in ITA No. 5733/Del/2018)**

Krishan Kant Kohli C/o. M/s RRA Taxindia, D- 28, South Extension, Part- 1, New Delhi <b>PAN No:AALPK4611N</b>	Vs.	ACIT Central Circle-II Gurgaon, Haryana
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Somil Agarwal, Adv & Sh. Shrey Jain, Adv
Respondent by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	10/12/2024
Date of Pronouncement	12/12/2024

**ORDER**

**PER BENCH:**

The above two captioned appeals are filed by the Department against the order of the Ld. CIT(A) dated 30/06/2018 for Assessment Year 2011-12

and 2012-13. The Assessee has also preferred the respective Cross Objections by supporting the order of the Ld. CIT(A) for both the Assessment Years.

2. The Ld. Assessee's Representative submitted that the Appeals of the Assessee for the years under consideration have been allowed by the Ld. CIT(A) by relying on the Judgment of Jurisdictional High Court in the case of CIT (Central III) Vs. Kabul Chawla reported in (2016) 380 ITR 573 (Del), further submitted that the ratio laid down by the Jurisdictional High Court in the case of Kabul Chawla (supra) has been confirmed by the Hon'ble Supreme Court in the case of PCIT Vs. Abhisar Buildwell Pvt. Ltd. (2023) SCC Online (SC) 481, thus, submitted that the Appeal of the Revenue are liable to be dismissed.

3. Per contra, the Ld. Departmental Representative relying on the order of the Lower Authorities, sought for allowing the Appeals and prayed for dismissal of the Cross Objections filed by the Assessee.

4. We have heard both the parties and perused the material available on record. In both the years under consideration, it is undisputed fact that no incriminating materials/documents or any other evidence was found or seized during the course of search proceedings which resulted in addition

against the Assessee. The additions have been made on account of deemed dividends in the hands of the Assessee.

5. The Hon'ble Supreme Court in the case of *Abhisar Buildwell* (supra) approved the view taken by the Co-ordinate Bench of the Tribunal in the case of *Kabul Chawla* (supra) in following manners: -

*“22. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in the case of Kabul Chawla (supra) and the Gujarat High Court in the case of Saumya Construction (supra) and the decisions of the other High Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material.*

*23. 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/ ITA 680/2023 Page 7 of 8 pages mentioned under sections 147/148 of the Act and those powers are saved.”*

6. By respectfully following the ratio laid down by the Hon'ble Supreme Court in the case of Abhisar Buildwell (supra), considering the fact that no incriminating materials/documents or any other evidence was found or seized during the course of search proceedings which resulted in addition against the Assessee and the additions have been made on account of deemed dividends in the hands of the Assessee, we find no merit in appeals of the Revenue, accordingly, ITA Nos. 5732/Del/2018 and 5733/Del/2018 filed by the Revenue are dismissed.

7. Since, we have dismissed the Appeal filed by the Revenue, the Cross Objections filed by the Assessee have become in-fructuous, accordingly, the Cross Objections No. 196/Del/2018 and 197/Del/2018 filed by the Assessee are dismissed.

Order pronounced in open Court on 12<sup>th</sup> December, 2024

Sd/-  
**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Dated: 12/12/2024  
R.N, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI