

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एव श्री नरेन्द्र कुमार, न्यायिकसदस्य के समक्ष  
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 799/JP/2023  
निर्धारण वर्ष / Assessment Year : 2015-16

Kavita Samtani, 082 Sindhu Nagar, Opposite Pani Ki Tanki, Bhilwara.	ब्लाम Vs.	The DCIT, Central Circle, Ajmer.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: DBDPS 4032 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. Mahendra Gargieya, Adv.  
राजस्व की ओर से / Revenue by: MS. Alka Gautam, CIT

सुनवाई की तारीख / Date of Hearing : 21/10/2024  
उदघोषणा की तारीख / Date of Pronouncement: 22/10/2024

आदेश / ORDER

PER: Narinder Kumar, Judicial Member,

The above captioned appeal has been filed by Smt. Kavita Samtani while challenging order passed by Id. CIT(Appeal), relating to Assessment Year 2015-16.

2. Vide impugned order, Id. CIT(Appeal) has upheld the assessment and dismissed the appeal filed by the assessee.

3. The assessee had filed her original return of income on 24.9.2015 declaring therein total income of Rs. 1,80,220/-. Assessing Officer computed total income of the assessee at Rs. 7,10,220/-

While computing the income, an addition was made u/s 68 of the Act on account of certain credits, which, according to the Assessing Officer, the Assessee failed to explain.

4. The appeal filed by the assessee against the said assessment order came to be dismissed by Id. CIT(Appeal).

5. Arguments heard. File perused.

6. As noticed above, after search and seizure action u/s 132 of the Act was carried out on 29.03.2018 at the residential premises of the appellant and that of her husband Deepak Samtani; and business premises of the husband of the assessee, and also his family members, , a notice u/s 153A of the Act was issued on 16.07.2019, whereupon the assessee submitted her return of income on 21.09.2019, declaring income of Rs. 1,80,220/-.

It was thereafter that notices u/s 143(2) and 142(1) of the Act were issued, and the assessee submitted certain documents as find mentioned in para 4 of the impugned order.

7. Ultimately, the addition was made u/s 68 of the Act on account of the unexplained credits.

### **Arguments & Discussion**

8. One of the contentions raised by Ld. AR for the appellant is that since search was carried out only in the case of her husband of the assessee and no search and seizure proceedings u/s 132 of the Act were carried out in the case of the assessee, , the Assessing Officer could not proceed with assessment proceedings u/s 153A of the Act.

At the same time, it has been submitted that, at the most, the Assessing Officer could proceed with assessment proceedings u/s 153 C, particularly when no incriminating material was found or seized from the residential premises of the appellant.

9. In support of written submission on this point, Learned AR has extracted some paragraphs of certain decisions. Para 1.2 of the written submission , when reproduced, reads as under:-

#### **“1.2 Supporting Case Laws:**

1.2.1 In the case of Tirupati Construction Company Vs ITO DB CWP No. 17651/2022, it has been held:

"The Rajasthan High Court quashed the reassessment orders issued under Section 148A(d), underscoring the importance of adhering to

the appropriate procedural routes as stipulated in the Income Tax Act, 1961. The judgment reinforces that the reopening of assessments based on search materials must follow the provisions of Section 153C, ensuring that procedural safeguards and statutory limitations are respected."

1.2.2 In the case of *Shyam Sunder Khandelwal & Ors. Vs. Assistant Commissioner of Income Tax (2024) 338 CTR (Raj) 129*, it has been held that:

"Reassessment-Validity Applicability of ss. 147 and 148 vis-a-vis ss. 153A and 153C-Special procedure is prescribed under s. 153A to s. 153D for assessment in cases of search and requisition-Provisions of s. 153A to s. 153D have prevalence over the regular provisions for assessment or reassessment under ss. 143 and 147/148-Language of Explan. 2 to new s. 148 is akin to s. 153A and s. 1530-Corollary being that after seizing of operational period of s. 153A to 153D, the cases being dealt thereunder were circumscribed in the scope of newly substituted s. 148-Argument that by enactment of ss. 153A to 153D has not eclipsed s. 148 does not enhance the case of respondent to initiate the proceedings under s. 148-Operating field of ss. 153A to 153D and s. 148 are different-Applicability of s. 1530 in cases where the seized material related to or belonged to person other than on whom search is conducted or requisition made does not render s. 148 otiose-Sec. 148 shall continue to apply to the regular proceedings and also in cases where no incriminating material is seized during the search or requisition- Argument that s. 153C can be invoked in case there is incriminating material for all the relevant preceding years and otherwise s. 148 is to be resorted to, is misplaced-Once there is incriminating material seized or requisitioned belonging or relatable to the person other than on whom search was conducted s. 153C is to be resorted to-Notice under s. 148 is therefore liable to be quashed"

1.2.3 *Principal CIT vs. Saumya Construction (2017) 297 CTR (Guj) 387: (2016) 387 ITR 529 (Guj)*

1.2.4 In the case of Dy. CIT vs. Smt. Shivali Mahajan & Ors. (ITA No. 5585/Del/2015), the Tribunal was considering whether books of accounts, money, bullion, jewellery found during the course of search relates to other person than the searched person, can be considered or not while making assessment under s. 153A of the Act (Like in the present appeals, simultaneous searches were carried out at the premises of the other person namely, Shri Deepak Samtani). However, the Tribunal has specifically held that the material recovered from the premises of other persons cannot be used in the hands of the searched person (here the assessee) and for that purpose assessment could be made only under s. 153C or 147. It held as under:

"15. Thus, when during the course of search of an assessee any books, document or money, bullion, jewellery etc. is found which relates to a person other than the person searched, then the AO of the person searched shall hand over such books of account, documents, or valuables to the AO of such other person and thereafter, the AO of such other person can proceed against such other person. However, in the case under appeal before us, admittedly, s. 153C is not invoked in the case of the assessee and the assessment is framed under s. 153A. We, respectfully following the above decisions of Hon'ble jurisdictional High Court, hold that during the course of assessment under s. 153A, the incriminating material, if any, found during the course of search of the assessee only can be utilized and not the material found in the search of any other person."

1.2.5 In the case of Hitesh Ashok v ACIT (2021) 214 TTJ (Ahd) 410, it has been held that:

"Search and seizure-Assessment under s. 153A-Scope-In an assessment under s. 153A, income has to be assessed only on the basis of material found during the course of search against the assessee- Cash book was not found from the premises of the assessee-None of the additions, except addition of jewellery in the

asst, yr. 2015-16 in the case of D was made on the basis of seized material-As far as the case of SM Ltd. is concerned, the additions were made on the basis of certain information gathered during the investigation carried out by Investigation Wing in the case of an unconnected third person-These materials could not be considered in the assessment proceedings under s. 153A- Likewise, additions made by the AO in the case of R in different assessment years are not based on the seized material found during the course of search carried out at his premises-However, addition of Rs. 44,48,456 in the case of D deserves to be confirmed because the material to this effect was found during the course of search carried out at the premises of the assessee.

1.2.6 Kindly refer ACIT v. Atul Kumar Gupta (2023) 152 taxmann.com 99 (Delhi Trib.), where it is held that:

"II. Section 153A, read with section 153C, of the Income-tax Act, 1961- Search and seizure Assessment in case of (Search proceedings) Assessment year 2011-12 There was a search upon assessee and during course of search cash, jewellery and some foreign currency was found Assessing Officer on basis of appraisal report had treated payments made on account of credit card as income of assessee under section 153A-During course of search of 'RG', a document was seized which contained a ledger account of 'D' which showed payment received by assessee during year under consideration in cash-Assessing Officer had stated that such payments had been made out of undisclosed income of assessee and made addition under section 68-Assessee pleaded that as no document was found from assessee, assessment under section 153A did not stand-Whether since addition had been made on assessee under section 153A assessment on basis of documents found from a separate search at third party, assessment should have been done under section 153C and not under section 153A Held, yes Whether assessment having been made under section 153A and not under section 153C, this being a fatal error in 6/29/24, 7:08 PM 2/14

assessment order which was not curable, order of authorities below was to be set aside Held, yes [Para 26] [In favour of assessee]"

1.2.7 In the case of DCIT vs. BSR Builders Engineers & Contractors in ITA Nos. 732, 733, 734/CHNY/2023, it has been held:

"7. After going through the judicial precedents and particularly the decision of Hon'ble Delhi High Court in the case of Anand Kumar Jain, supra, we are of the view that as per the mandate provided by the provisions of section 153C of the Act, the statement made by assessee cannot be a base for making assessment u/s. 153A of the Act on the basis of alleged incriminating material (being the statement recorded u/s.132(4) of the Act) on the basis of which assessment was framed u/s.153A of the Act rather assessment should have been framed u/s 153C of the Act by recording a separate satisfaction. Hence, we find no infirmity in the order of CIT(A) and we affirm the order of CIT(A) on this legal issue."

As per provisions of Section 153C of the Act, notice required to be issued to the other person would be a notice u/s 153C of the Act, but even then assessment is to be framed in accordance with the procedure prescribed u/s 153 of the Act.

From the facts it can safely be gathered that search and seizure proceedings under section 132 of the Act were carried out not only as regards husband of the assessee and his business, but also at the residential premises of the assessee and her husband.

In the given situation, the extract of the decisions referred to by learned AR for the appellant in paras 1.2.1 to 1.2.7 of the written

submissions do not come to the aid of the assessee, and there is no merit in the contention raised on behalf of the appellant.

**Whether addition has been made without any incriminating material and that too beyond the prescribed period of limitation?**

10. Another contention raised by the Ld. AR for the appellant is that assessment for the assessment years 2012-13 to 2015-16 stood already completed, and as on the date of search and seizure i.e. 29.03.2018, the time limit to issue notice u/s 143(2) of the Act had already expired on 08.01.2013.

As is available from the following table available in para 3.2.1 of the written submission, following assessments stood completed on the date(s) given hereunder:

A.Y.	ROI filed u/s 139 on dated:	Total income declared	Assessment completed	
			Under S.	On dated
2012-13	10.07.2012	Rs. 1,84,800/-	143(1)	08.01.2013
2013-14	22.07.2013	Rs. 1,85,560/-	143(1)	01.03.2014
2014-15	09.08.2014	Rs. 1,86,000/-	143(1)	02.12.2014
2015-16	24.09.2015	Rs. 1,80,220/-	143(1)	19.10.2015
2016-17	04.08.2016	Rs. 2,14,800/-	143(1)	28.10.2016

2017-18	07.10.2017	Rs. 2,14,860/-	143(1)	15.11.2017
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In support of his contention, Ld. AR for the appellant has also relied on the following paragraph extracted from decision in case of **Chintels India Ltd. vs. Dy. CIT**, (2017), 297 CTR (Del) 574/397ITR 416 (Del):

“S. 153A, read with S. 143, of the Income-tax Act, 1961-Assessment in case of search on requisition (General)-Assessment year 2008-09-whether where notice under S. 143(3) was not issued within period of six month from filing of return, return filed would become final and no scrutiny proceedings could be started in respect of said return-Held, yes [para21] [in favour of assessee]”

11. Learned DR has submitted that she stands by the reasons and finding recorded in the order passed by Learned CIT(A) and the impugned assessment.

12. As regards, the ledger seized during search action at the residence i.e. 29, Shindhu Nagar, Bhilwara, and business premises of her husband, Ld. AR for the appellant has submitted that the ledger pertained to M/s Mohan Broker Agency, relating to assessment year 2017-18 i.e. proprietorship concern of her husband, to which she had no concern at all.

13. As per assessment order, the Assessing Officer found from certain documents that the assessee had received a sum of Rs. 50,000/- on 08.05.2014, Rs. 1,90,000/- on 09.05.2014 and Rs. 4,65,000/- on

02.06.2014, from the said proprietorship concern; and that she had also received back a sum of Rs. 2,90,000/-(during FY 2012-13) out of certain amount said to have already been given by her.

In her return, the assessee was found to have not disclosed to have received back the said amount of Rs. 8,20,000/-. That is how, the Assessing Officer held that the said amount of Rs. 5,30,000/- i.e. (Rs. 8,20,000/--2,90,000/-) was not explained by the assessee, and the same attracted provisions of Section 68 of the Act.

14. In this regard, Ld. AR has placed reliance on following paragraphs extracted from certain decisions:-

“In this regard, kindly refer Bharati Vidyapeeth Medical Foundation vs ACIT [in ITA 959-967/PN/10], wherein the Hon'ble ITAT - Pune Bench vide its order dated 28.04.2011 has held as under:

"24. Appeals by the Assessee AY 2004-05: In connection with the AYs at sl no (ii) above i.e. AYs 2004-05, admittedly, there is some seizure of the documents as evident from the satisfaction note. We are convinced that the said ledger is an accounted one. Further, the reasoning given by us in the order in the case of Sinhgad Technical Education Society (supra) apply to the issue in these appeals mutatis mutandis. In other words, the views approved by this bench in the case of Sinhgad Technical Education Society (supra) and Kumar

Company (supra) are affirmed by the said Judgment of the Gujarat High Court in the case of Vijaybhai N Chandani 231CTR 474 (Guj) and mere appearance of names does not mean anything as section 153C of the Act is intended for taxing the undisclosed income of the third party based on the material/others seized during the search action. As such, only the unaccounted and incriminating material or others listed in the said section are only seized during the search and the accounted documents should not be seized. Seizure of the documents is aimed at the unearthing of the unaccounted income of the assessee assessable u/s 153A or the other third parties subjected assessment u/s 153C of the Act. When the documents do not indicate any undisclosed income, the ledger in the instant case, what is the relevance of such document? Such ledger constitutes merely an accounted one with no financial implications. Thus, the documents, the ledger in the instant case relevant for the AY 2004-05, with no financial implications can neither be considered incriminating nor be considered capable of springing satisfaction to any AO that there is scope of undisclosed income in respect of the third party assessable u/s 153C of the Act. Accordingly, the legal grounds raised in all these appeals of the assessee relating to the validity of the notice u/s 1530 of the Act are allowed in favour of the assessee in respect of all the AYs under consideration. Further, we are of the considered opinion that the adjudication of the other grounds relating to the other legal and merit-oriented issues is merely an academic exercise. Therefore, the relevant grounds in all the four appeals are dismissed as academic."

3.3.1 There are umpteen number of cases including the case of CIT vs. Kabul Chawla (2015) 281 CTR (Del) 45/ (2016) 380 ITR 573 (Del), wherein the Hon'ble Delhi High Court after detailed analysis, has summarized legal position, and the relevant extracts therefrom are extracted herein below:

"(v) In absence of any incriminating material, the completed assessment can be reiterated, and the abated assessment or reassessment can be made. The word 'assess' in s. 153A is relatable to abated proceedings (i.e. those pending on the date of search) and the word reassess' to completed assessment proceedings.

(vi) Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under s. 153A merges into one. Only one assessment shall be made separately for each assessment year on the basis of the findings of the search and any other material existing or brought on the record of the AO.

(vii) Completed assessments can be interfered with by the AO while making the assessment under s. 153A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment."

3.3.2 Moreover, reliance is also placed upon the decision of Hon'ble Rajasthan High Court in the case of Jai Steel (India) vs. Asstt. CIT

(2013) 259 CTR (Raj) 281/88 DTR (Raj) 1, wherein it was has held that:

“18. To consider the rival submissions made at the Bar in the context of the present case and the substantial question of law framed, the scope of assessment and reassessment of total income' under S. 153A(1)(b) and the first and second proviso have to be considered. Further, for answering the above issues, guidance will have to be sought from S. 132(1) of the Act, as S. 153A of the Act cannot be read in isolation, inasmuch as, the same is triggered only on account of any search/requisition under S.s 132 or 132A of the Act. If any books of account or other documents relevant to the assessment had not been produced in the course of original assessment and, found in the course of search, such books of account or other documents have to be taken into consideration while assessing or reassessing the total income under the provisions of S. 153A of the Act. Even in a case where undisclosed income or undisclosed property has been found as a consequence of the search, the same would also be taken into consideration. The requirement of assessment or reassessment under the said S. has to be read in the context of S.s 132 or 132A of the Act, inasmuch as, in case nothing incriminating is found on account of such search or requisition, then the question of reassessment of the concluded assessments does not arise, which would require more reiteration and it is only in the context of the abated assessment under second proviso which is required to be assessed.

20. The necessary corollary of the above second proviso is that the assessment or reassessment proceedings, which have already been 'completed' and assessment orders have been passed determining the assessee's total income and, such orders are subsisting at the time when the search or the requisition is made, there is no question of any abatement since no proceedings are pending. In such cases, where the assessments already stand completed, the AO can reopen the assessments or reassessments already made without following the provisions of S.s 147, 148 and 151 of the Act and determine the total income of the assessee."

3.3.3. The law on this aspect is no more Res Integra in as much as very recently the Hon'ble Apex Court in the case of PCIT vs. Abhisar Builders (2023) 332 CTR (SC) 385 has held as under:

"13. 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.

14. In view of the above and for the reasons stated above, it is concluded as under:

(i) that in case of search under S. 132 or requisition under S. 132A, the AO assumes the jurisdiction for block assessment under S. 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 S. 132 or requisition under S. 1324 of the Act, 1961. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under S.s 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under S.s 147/148 of the Act and those powers are saved."

15. In paras No. 3.3.1 to 3.3.4, reference has been made to 4 decisions , but Full Text thereof has not been provided in the written submissions or subsequently.

16. Learned DR has submitted that in the ITR, the assessee had not disclosed said income and as such there is no merit in the contentions raised on behalf of the assessee-appellant.

17. As noticed above, the assessee had filed her original return of income on 24.09.2015 declaring therein total income of Rs.180220/-. Total income of Rs.1,80,220/ was offered in the valid return of income filed on 21.9.2019 in compliance to notice u/s 153A of the I.T. Act.

18. As per assessment order, following observations were made by the Assessing Officer in framing the assessment:-

“7. During the course of search at her residence at 29, Sindhu Nagar, Bhilwara and business premises of her Husband Shri Deepak Samtani, seized loose papers as Annexure AS, Exhibit-6, Page No. 12 to 14 were queried upon. In reply to the same, it was stated that it is ledger of M/s Mohan Broker Agency relevant to A. Y. 2017-18 which is a concern of her husband and she is not related with the same. But the relevant documents reflects that on 08.05.2014, 09.05.2014 and 02.06.2014, she had received cash from M/s Mohan Broker Agency respectively of an amount of Rs. 50,000/-, Rs. 1,90,000/- and Rs. 4,65,000/-. Out of the earlier given amount by her of Rs. 2,90,000/- during F.Y. 2012-13, she has received back Rs. 8,20,000/- from this concern for which there is no disclosure in her return. The assessee's A/R simply brushed aside the issue by saying that this is only related to M/s Mohan Broker Agency (a concern of

her husband, Shri Deepak Samtani), but ignored this issue that she is in receipt of substantial amount of Rs. 8,20,000/ which includes her earlier loan given to this concern of Rs. 2,90,000/- during F.Y. 2012-13. There is no disclosure of these transactions in the return of the assessee filed for A.Y. 2015-16 and the unexplained credits of the balance sum of Rs. 5,30,000/- (Rs. 8,20,000 Rs. 2,90,000) is treated as unexplained cash credit u/s 68 and liable to be added to the income of the assessee for A.Y. 2015-16.

Further, the undersigned records his satisfaction that the assessee has concealed her income particulars within the purview of provisions of Sec. 271AAB(1A) for A. Y. 2015-16. Notice u/s 271AAB (1A) r.w.s. 274 is being issued.

As regard the Exhibit AS-2, Page No. 1 to 14 and AS-6, Page No. 6 which are respectively chain document of subsequent purchase made by the assessee during F.Y. 2015-16 and LIC premium payment receipts has got no direct financial implication in the year under consideration. Hence, the reply of the A/R in this regard is accepted.”

19. As noticed above, and has not disputed on behalf of the Revenue, assessments for the assessment years 2012-13 to 2015-16 already stood completed. In other words, no assessment for the said assessment years was pending as on 29.03.2018 falling in assessment year 2019-20.

20. In the given facts and circumstances, it can safely be said that when husband of the assessee had already recorded the transactions in the books of accounts and requisite entries also appear in the Bank statement of the appellant, this is not a case of discovery of any incriminating material against the assessee so as to attract the provisions regarding extension of period of limitation for re-assessment or for the purposes of section 68 of the Act.

21. When the matter came up before Learned CIT(A), while referring to the above said entries reflected in the ledger, it was observed that the appellant had not able to explain the purpose and source of amount received by her from M/s Mohan Broker Agency, when the bank account statement of M/s Mohan Broker Agency revealed that amount of Rs. 1,90,000/-, Rs. 50,000/- and Rs. 4,65,000/- was deposited by her husband in the bank account before being transferred to the appellant.

22. Ld. AR for the appellant has submitted that actually as per copy of the ledger account of the appellant in the books of the proprietorship concern of her husband, pertaining to financial year 2014-15, there was credit balance of Rs. 2,90,000/-; that against the said credit balance, the assessee received a sum of Rs. 1,15,000/-, Rs. 50,000/- , Rs. 1,90,000/-

and Rs. 4,65,000/- i.e. total sum of Rs. 8,20,000/-. In other words, during the financial year 2014-15, the assessee received only a sum of Rs. 5,30,000/-, as the sum of Rs.2,90,000/- pertained to FY 2012-13.

Learned AR for the appellant has placed reliance on the declaration dated 10.12.2019 by the husband of the assessee, submitted to the Assessing Officer confirming that a sum of Rs. 5,30,000/- was due from him, the proprietor of Mohan Broker Agency, to his wife.

23. Having regard to the subject transactions recorded in the books of accounts of the husband of the appellant and also in the bank statement pertaining to the account of the assessee-appellant, it can safely be said that concerned transactions had already been recorded in the said record.

It is not in dispute that after the husband of the assessee-appellant had furnished Income Tax Return in the concerned assessment year, no such step was taken by the Assessing Officer for scrutiny or re-assessment.

In other words, previously the income disclosed by the husband of the assessee-appellant was not doubted, including the said transactions, which have subsequently been picked up after search and seizure action. There is no explanation from the Department as to why no scrutiny was

made regarding the said assessments while processing the ITR furnished by the husband of the assessee-appellant at the relevant time or within the prescribed period of limitation.

24. In the given facts and circumstances, we find merit in the contention raised on behalf of the appellant above- said 3 entries pertain to transfer of amounts to the assessee by the proprietorship concern being run by her husband and since the ledger did not indicate any financial implication, said entries could not be said to be unexplained cash credit, attracting the provisions of Section 68 of the Act.

25. Having record to the material placed on record by the assessee-appellant, before the Assessing Officer as well as Learned CIT(A) and before this Appellate Tribunal, we are of the considered opinion that the impugned assessment framed by the Assessing Officer and the impugned order passed by Learned CIT(A) deserves to be set aside accordingly, same hereby set aside.

**Whether statement of the assessee was the only material available against the assessee?**

26. It has been submitted on behalf of the assessee that statement made by the assessee cannot be termed to be incriminating material.

In this regard, suffice it to state that the Assessing Officer nowhere mentioned in the assessment order about any statement made by the assessee u/s 132 of the Act.

27. It may be mentioned here that subsequently, during pendency of the appeal, on behalf of the appellant an application came to be presented with the prayer seeking permission to raise three grounds mentioned therein.

*First additional ground* is that no DIN number having been generated as regards the impugned assessment order, same is nullity being non-est.

*Second additional ground* is that the impugned assessment order has not been digitally signed as per procedure prescribed by CBDT, same is non-est.

*The third additional ground* is that no prior approval, as mandated by section 153D of the Act was obtained and as such the impugned assessment has been framed without any jurisdiction.

In this regard, it may be mentioned that as noticed above, the impugned order passed by Learned CIT(A) and the impugned assessment framed by the Assessing Officer deserve to be set aside, for the abovesaid

discussion and reasons, the three additional grounds sought to be raised on behalf of the appellant for academic purposes, are not being taken up,

No other argument has been advanced before us.

## Result

28. In view of the above finding, the appeal is allowed and the impugned order passed by Learned CIT(A) confirming the impugned assessment framed by the Assessing Officer is hereby set aside.

File be consigned to the record room after the needful is done by the office.

Order pronounced in the open court on 22/10/2024.

Sd/-

(राठौड़ कमलेश जयन्तभाई )  
(RATHOD KAMLESH JAYANTBHAI)  
लेखा सदस्य / Accountant Member  
जयपुर / Jaipur

दिनांक / Dated:- 22/10/2024

\*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Kavita Samtani, Bhilwara.
2. प्रत्यर्थी / The Respondent- DCIT, Central Circle, Ajmer.
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 799/JPR/2023)

Sd/-

(नरेन्द्र कुमार)  
(NARINDER KUMAR)  
न्यायिक सदस्य / Judicial Member

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar