

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA No. 116/Agr/2022
Assessment Year: 2017-18

Ram Kumar Sharma, Village- Virampur, Tehsil Johra, Distt. Morena (MP)	Vs.	Pr. CIT, Gwalior
PAN : HAMPS8532J		
(Appellant)		(Respondent)

Assessee by	Sh. Rajendra Sharma, Advocate
Department by	Sh. Sukesh Kumar Jain, CIT (DR)

Date of hearing	11.02.2025
Date of pronouncement	11.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment year 2017-18, arises against the Pr. Commissioner of Income Tax (in short "PCIT), Gwalior's order dated 14.03.2022 in Appeal No. F.No. Pr. CIT/Gwl/263/2021-22, involving proceedings under section 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties. Case file perused.
3. It emerges during the course of hearing with the able assistance of both the parties that the learned PCIT's revision directions have termed

the assessment order herein dated 31.12.2019 passed by the assessing officer as an erroneous one causing prejudice to the interest of revenue.

4. Suffice to say, we find that the instant case involves a requisition u/s. 132A of the Act dated 29.01.2017, wherein the learned Assessing Officer framed his assessment in question u/s. 147 of the Act than that under the relevant specific provision applicable in case of search or requisition u/s 132A , i.e. sec. 153A of the Act. We thus conclude that once an assessment herein has been framed under a wrong provision, the same is a non-est one as per *sublato fundamento cadit non opus*". We thus quash learned PCIT's revision directions in very terms. Ordered accordingly.

5. All other pleadings on merits stand rendered academic.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 11TH February, 2025.

**Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated: 11TH February, 2025.

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra