

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

**Before Sh. Satbeer Singh Godara, Judicial Member  
&  
Sh. M. Balaganesh, Accountant Member**

**ITA No. 374/Agr./2019 : Asstt. Year: 2009-10**

ACIT, Circle-2(1), Gwalior, M.P.-474001	Vs	Sh. Shiv Kumar Gupta, 97/98, Aishrwyra Apartment, Flat No. 401, New Agrawal Road, Sapna Sangeeta Road, Indore
(APPELLANT)		(RESPONDENT)
<b>PAN No. AEIPG4686A</b>		

**Assessee by : Sh. Mahesh Agarwal, CA  
Revenue by : Sh. Sukesh Kumar Jain, CIT-DR**

<b>Date of Hearing: 03.02.2025</b>	<b>Date of Pronouncement: 03.02.2025</b>
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**ORDER**

**Per Satbeer Singh Godara, Judicial Member:**

This Revenue's appeal for Assessment Year 2009-10, arises against the CIT(A), Gwalior's in case No. 424 to 429/IT/2013-14/Gwalior dated 30.09.2019, in proceedings u/s 143(3) r.w.s. 153A of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.
3. Coming to the Revenue's instant appeal, we note at the outset that the learned departmental authorities had conducted the search in question in assessee's case on 07.10.2010 leading to initiation of Section 153A proceedings culminating in the

Assessing Officer's assessment framed on 25.03.2013 making the additions in question. There could be hardly any dispute that we are dealing with an "unabated" assessment as on the date of search wherein and any addition has to be made in the assessee's hands based on the specific seized material only as per PCIT Vs. Abhisar Builwell P. Ltd. (2023) 454 ITR 212 (SC).

4. We are of the considered view that given the fact that there is no addition made on the basis of the specified seized material, we reject the Revenue's instant appeal in very terms on this preliminary legal issue.

5. This Revenue's appeal is dismissed.

Order Pronounced in the Open Court on 03/02/2025.

Sd/-  
**(M. Balaganesh)**  
**Accountant Member**

Sd/-  
**(Satbeer Singh Godara)**  
**Judicial Member**

**Dated: 03/02/2025**

\*Subodh Kumar, Sr. PS\*

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

**ASSISTANT REGISTRAR**