

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN “SMC” BENCH, DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA No.151/DDN/2024
Assessment Year: 2019-20

Smt. Sushila Chandra, 57, Lane-4, Krishan Vatika, Lane-1, Phase-1, Doon Divine, Dhurankas, Sahastradhara Road, Dehradun	Vs.	ACIT, Central Circle, Dehradun
PAN :AJEPC9713B		
(Appellant)		(Respondent)

Assessee by	Sh. Nitish Gupta, CA
Department by	Sh. A.S. Rana, Sr. DR

Date of hearing	21.03.2025
Date of pronouncement	13.06.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2019-20, arises against the Commissioner of Income Tax (Appeals)-3 [in short, the "CIT(A)"], Noida's order dated 10.07.2024 passed in case no. CIT(Appeal) Noida-3/10030/2018-19, involving proceedings under

section 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. It transpires during the course of hearing that there arises the first and foremost legal issue of validity of the impugned section 148/147 proceedings itself since initiated on the basis of a seized material found in the course of search carried out in case of one Sh. Krishan Sharma & Smt. Sheetal Sharma on 02.02.2022. This clinching fact duly emerges from a perusal of the CIT(A)'s lower appellate discussion at page 7 onwards that the department has proceeded to add the assessee's cash payments/receipts; as the case may be, going by the corresponding entries found to have made in the seized material. It is in this factual backdrop that the department has strongly contested the assessee's above legal ground that section 148/147 mechanism set into motion herein is indeed sustainable in law than that under section 153C of the Act going by PCIT Vs. Naveen Gupta (2024) 168 taxmann.com 574 (Del) settling the issue against the assessee. We, however, note that various other judicial precedents i.e. Shyam Sunder Khandelwal Vs. ACIT (2024) 161 taxmann.com 255 (Raj.); PCIT Vs. VSL Mining

Company Pvt. Ltd. (2024) 167 taxmann.com 373 (Ker) and Amit Kumar alias Amit Saraf Vs. Union of India (2024) 462 ITA 205 (Del) have adjudicated the very issue in assessee's favour. And also that their lordships concluded that section 148/147 proceedings initiated on the basis of such seized incriminating material leads to initiation of the specific provision under section 153C than the general reopening mechanism under section 148/147 of the Act. Hon'ble jurisdictional high court of Uttarakhand has admittedly not decided the instant issue in either party's favour. That being the case, we hereby quash Commissioner of Income-Tax Vs. Vegetable Products Ltd. [1971] 80 ITR 14 (Kol.) that the view favouring the assessee in such an instance ought to be adopted and quash the impugned reopening herein forming subject matter of record. Ordered accordingly.

All other pleadings on merits stand rendered academic.

3. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 13th June, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13th June, 2025.

RK/-

Copy forwarded to:

1. Appellant

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

Asst. Registrar, ITAT, New Delhi