

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 2065/DEL/2025 [A.Y 2013-14]
ITA No. 2066/DEL/2025 [A.Y 2014-15]
ITA No. 2067/DEL/2025 [A.Y 2015-16]
ITA No. 2068/DEL/2025 [A.Y 2016-17]

Shri Bhagwat Dayal
H. No. D-958, 60 Ft. Road
Chawla Colony, Ballabgarh
Faridabad, Haryana

Vs.

The Dy. CI.T.
Central Circle - 2
Faridabad

PAN: AJBPD 8984 E

(Appellant)

(Respondent)

Assessee By : None

Department By : Shri Mahesh Kumar, CIT-DR

Date of Hearing : 30.10.2025

Date of Pronouncement : 30.10.2025

ORDER

PER NAVEEN CHANDRA, AM :-

The above captioned four appeals by the assessee are directed against four separate orders of the ld. CIT(A)-3, Gurgaon dated 28.01.2025 for A.Y 2013-14 to 2016-17 respectively.

2. Since these appeals pertain to same assessee and involve common issues, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. Though the assessee has raised as many as 9 grounds of appeal, the solitary grievance raised by the relates to the deletion of the addition made by the Assessing Officer u/s 153A of the Income-tax Act, 1961 [the Act, for short] when there was no incriminating document/material found during the course of search.

4. None appeared on behalf of the assessee. We heard the ld. DR at length who assisted us with the facts of the case. Case records carefully perused and considered.

5. Additions were challenged before the ld. CIT(A) claiming that the additions are devoid of any reference to incriminating material found during the course of search and the assumption of jurisdiction u/s 153A is bad in law. After considering the facts and submissions, the ld. CIT(A) confirmed the action of the Assessing Officer, hence the aggrieved assessee is before us.

6. The ld. DR stated before us that the additions are made on the basis of deposits in the bank. The ld DR however, did not controvert the fact that no incriminating materials were found with regard to the

additions and heavily relied on the orders of the Assessing Officer and the CIT(A).

7. We have heard the rival submissions and have carefully perused the orders of the authorities below and the relevant material on record. We find that a search u/s 132 on SRS group took place on 06.06.2018 and the assessee, a director in many group concerns of the SRS group, was issued notice u/s 153A on 03.12.2019. We also note that the admitted fact is that AY 2013-14, AY 2014-15, AY 2015-16 and AY 2016-17 are unabated assessments years. Another uncontroverted fact is that the additions are made on the basis of deposits in bank and are not based on any incriminating materials. The issue of addition in an unabated assessment year and the role of incriminating material is no longer res-integra and has been settled by the decision of the Hon'ble Supreme Court in the case of *Abhisar Buildwell* [supra] wherein the Hon'ble Supreme Court has held as under:

"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/mentioned under [sections 147/148](#) of the Act and those powers are saved.

The question involved in the present set of appeals and review petition is answered accordingly in terms of the above and the appeals and review petition preferred by the Revenue are hereby dismissed. No costs.

15. Insofar as the aforesaid Civil Appeals preferred by the assessee - M/s Kesarwani Zarda Bhandar Sahson, Allahabad are concerned, these appeals have been preferred against the impugned judgment and order dated 06.09.2016 passed in ITA Nos. 270/2014, 269/2014, 15/2015, 16/2015, 268/2014 and 17/2015,

as also, against the order dated 21.09.2017 passed in the review applications.

It is required to be noted that the issue before the Allahabad High Court was, whether in case of completed/unabated assessments, the AO would have jurisdiction to re-open the assessments made under [Section 143\(1\)\(a\)](#) or 143(3) of the Act, 1961 and to re-assess the total income taking notice of undisclosed income even found during the search and seizure operation.

15.1 In view of the discussion hereinabove, once during search undisclosed income is found on unearthing the incriminating material during the search, the AO would assume jurisdiction to assess or reassess the total income even in case of completed/unabated assessments. Therefore, the impugned judgment(s) and order(s) passed by the High Court taking the view that the AO has the power to reassess the return of the assessee not only for the undisclosed income, which was found during the search operation but also with regard to material that was available at the time of original assessment does not require any interference. Under the circumstances, the aforesaid appeals preferred by the assessee - M/s Kesarwani Zarda Bhandar, Sahson, Allahabad deserve to be dismissed and are accordingly dismissed. In the facts and circumstances of the case, no costs."

8. We are of the considered view that in the present cases of the assessee, as the addition made in the instant years are devoid of any incriminating materials, the case is squarely covered by the decision in

the case of *Abhisar Buildwell*. Respectfully following the decision of the Hon'ble Supreme Court (supra), we hold that no addition can be sustained in these four years under consideration and direct the Assessing Officer to delete the impugned additions in all the years under consideration. Grounds 1 and 2 of appeal are allowed.

9. As the appeal is allowed on jurisdictional issue, no adjudication is made on merits or other grounds of appeal.

10. In the result, all the appeals of the assessee in ITA Nos. 2065 to 2068/DEL/2025 are allowed.

Order pronounced in open court on 30.10.2025.

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated : 06th NOVEMBER, 2025.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

SI No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	