

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN BENCH 'DB': NEW DELHI**

**BEFORESHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.210/DDN/2024, A.Y. 2011-12  
ITA No.62/DDN/2024, A.Y. 2013-14  
ITA No.63/DDN/2024, A.Y. 2014-15  
ITA No.74/DDN/2024, A.Y. 2015-16  
ITA No.75/DDN/2024, A.Y. 2016-17  
ITA No.76/DDN/2024, A.Y. 2017-18**

Surender Kumar Chawla C/o. Matta Garg & Co., Chartered Accountant 15, Astley Hall, Dehradun-1 Uttrakhand PAN: ACAPC8966H	Vs.	Assistant Commissioner of Income Tax, Central Circle, Ayakar Bhawan, Haldwani Uttrakhand
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh.S.K.Matta, CA
Respondent by	Sh. S.K.Chaterjee, CIT (DR)

Date of Hearing	22/08/2025
Date of Pronouncement	/11/2025

**ORDER**

**PER BENCH**

Common facts and similar grounds arise in the above captioned appeals of the assessee; therefore, these appeals were heard together and are being disposed off by this common order.

2. The above captioned appeals for Assessment Years('AYs') 2011-12, 2013-14 to 2017-18 filed by the assessee are directed against orders dated 29.10.2024, 31.03.2024, 28.03.2024, 03.05.2024, 03.05.2024 and 10.05.2024 of the Commissioner of Income Tax (Appeals), Lucknow-3 ['CIT(A)'] respectively.

3. Following grounds have been raised in the ITA No. 63/DDN/2024, AY 2014-15:

1. *The learned assessing officer passed assessment order u/s 143(3) r.w.s.153A of the Income Tax Act, 1961 without jurisdiction and is void ab-inito.*
2. *There was no search warrant in the name of appellant, here was no incriminating material seized during the search operation from hands of the appellant and there was no panchnama drawn in the appellant.*
3. *The special audit report u/s 142(2A) is invalid as the special audit was conducted against the provisions of law.*
4. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.4,10,817/- being net negative cash as unexplained cash credit u/s 68 of the Income Tax Act, 1961.*
5. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.1,05,10,000/- on account of alleged purchase of property from Mr. Mohan Pal as alleged unexplained investment u/s 69 of the Income Tax Act, 1961.*
6. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.10,66,71,000/- on account of alleged purchase of property from Mr. Mohan Pal as alleged unexplained investment u/s 69 of the Income Tax Act, 1961.*
7. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.2,94,00,000/- on account of alleged purchase of property from Mr. Mohan Pal as alleged unexplained investment u/s 69 of the Income Tax Act, 1961.*
8. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.5,00,000/- received from Daljeet Tanjea as advance allegedly as unexplained cash credit u/s 68 of the Income Tax Act, 1961.*

9. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs35,00,000/- allegedly as unexplained investment u/s 69 on account of alleged payments made to Randhir Singh, Ramveer Singh and Ganesh Singh.*
  10. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.3,16,000/- for alleged purchase of agriculture land from Mr. Amar Raj Gupta as unexplained investment u/s 69 of the Income Tax Act, 1961.*
  11. *The orders passed are arbitrary, against the provisions of law and facts of the case.*
  12. *The appellant craves the leave to add, modify, amend or delete any at the time or before hearing of appeal.”*
- 3.1 Almost similar grounds are raised except the quantum of addition in all years except the AY 2017-18.
- 3.2 Following grounds have been raised in the ITA No. 76/DDN/2024, AY 2017-18:
- “1. *The learned assessing officer has passed assessment order u/s 143(3) of the Income Tax Act, 1961 without jurisdiction.*
  2. *The case of the appellant does not fall under any of the categories for compulsory scrutiny as per criteria of selection of cases for compulsory scrutiny.*
  3. *There was no search warrant in the name of appellant. There was no incriminating material seized during the search operation from hands of the appellant and there was no panchnama drawn in the name of the appellant.*
  4. *The special audit report u/s 142(2A) is invalid as the special audit was conducted against the provisions of law.*

5. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.19,25,249/- as unexplained cash credit u/s 68 of the Income Tax Act, 1961 being alleged net negative cash.*
  6. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.19,20,000/- as unexplained cash credit u/s 68 of the Income Tax Act, 1961 being alleged unexplained unsecured loans.*
  7. *The learned assessing officer as also learned CIT(A) have erred in making and confirming addition of Rs.23,00,000/- for alleged sale of property to Mrs. Daljit Taneja.*
  8. *The adequate opportunities of being heard and opportunity to cross examine the witness(s)/evidences were not afforded to the assessee during the course of assessment proceedings.*
  9. *The orders passed are arbitrary, against the provisions of law and facts of the case.*
  10. *The appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time or before bearing of appeal.”*
4. The relevant facts giving rise to these appeals are that Dinesh Pratap Singh Group and Allied Infra & Others Group of cases consisting of two sub groups: (i) Dinesh Pratap Singh Group and (ii) Allied Infra & Others Group were searched under section 132 of the Income Tax Act, 1961 ('Act'). Allied Infra & Others Group consists of Smt. Priya Sharma, Shri Sudhir Chawla, Shri Chaudhary and Others. The assessee belongs to Allied Infra & Others Group. Search assessments of six AYs were initiated in the case of the assessee under section 153A of the Act. Consequentially, the assessments of AYs 2011-12 to 2016-17 were completed under section 143(3) r.w.s.153A of the Act making various additions as challenged in these appeals. However, the assessment of the AY 2017-18 was completed under section 143(3) of the Act making various

additions as challenged in this appeal. During the course of assessment proceedings, the books of accounts of the assessee were got audited under section 142(2A) of the Act. The assessments of AYs 2011-12, 2013-14 to 2017-18 were completed at income of Rs.29,56,200/-, Rs.2,21,15,048/-, Rs.15,18,49,137/-, Rs.1,17,30,018/-, Rs.39,88,290/- and Rs.68,59,659/- as against returned incomes of Rs.2,56,200/-, Rs.5,13,520/- Rs.5,41,320/-, Rs.5,64,200/-, Rs.8,38,290/- and Rs.7,14,410/- respectively. Aggrieved with all these assessments, the assessee filed appeals before the Ld. CIT(A), but did not succeed in any appeal. Since all appeals were dismissed by the Ld. CIT(A); hence, these appeals are here.

**ITA No. 210, 62, 63, 74 & 75/DDN/2024, AY 2011-12, 2013-14& 2016-17:**

5. At the outset, Shri S. K. Matta, Ld. Authorized Representative ('AR') requested for adjudication of jurisdictional/technical ground by which assessments of AYs 2011-12, 2013-14 to 2016-17 completed under section 143(3) r.w.s.153A of the Act were challenged on the reasoning that the search under section 132 of the Act on the assessee had not resulted seizure of any incriminating material; hence, no addition should have been made in unabated assessment years revisited as consequence to notices under section 153A of the Act. Reliance was placed on the decision of Hon'ble Supreme Court in the case of Abhisar Buildwell P. Ltd. [2023] 149 taxmann.com 399. It was therefore, contended that assessments of unabated AYs were not valid as the search under section 132 of the Act on the assessee had not resulted seizure of

any incriminating material and assessments under reference; i.e. AYs 2011-12, 2013-14 to 2016-17, were not based on any incriminating material seized from the assessee under section 132 of the Act. Thus, assessments of AYs 2011-12, 2013-14 to 2016-17 were contrary to the provisions of section 153A of the Act. The Ld. AR therefore, prayed for quashing of assessments of AYs 2011-12, 2013-14 to 2016-17.

6. Further, the Ld. AR submitted that the case of AY 2011-12 was barred by limitation as search took place in FY 2016-17 relevant to AY 2017-18. The Ld. AR also submitted that on similar sets of the facts, the Ld. CIT(A) allowed relief to the wife of assessee; Mrs. Baljeet Rani Chawla by holding that there was no 'incriminating material' seized from Mrs. Baljeet Rani Chawla. However, in the present cases, the Ld. CIT(A) took different stand. Thus, it was not justified on the part of the Ld. CIT(A).

7. The Ld. AR submitted that the Hon'ble Supreme Court, in the case of Abhisar Buildwell P. Ltd. (supra), had categorically held that the presence of incriminating material (applicable on a year-by-year basis) was an indispensable requirement under section 153A of the Act. Further, Mr. Matta, Ld. AR of the assessee submitted that the incriminating material under section 153A of the Act specifically qua the unabated assessments had to be seized during the search carried out on the assessee for making any addition in search assessments. He submitted that the statute might not explicitly state this requirement, but judicial interpretations had made it clear that search

assessment could not be proceeded with arbitrarily and must be substantiated by the incriminating material found during the assessee's own search, qua each assessment year involved therein.

8. The Ld. AR of the assessee, placing emphasis on the findings of the Hon'ble Delhi High Court in the case of Kabul Chawala, 380 ITR 573, submitted that the absence of such incriminating material would result the assessment proceeding only in the abated proceedings and the unabated assessment must remain untouched. The Hon'ble Delhi High Court had clarified that the intervening in such completed assessment was permissible only when there was incriminating material seized from the assessee. He further submitted that the Hon'ble Supreme Court in the case of Abhisar Buildwell P. Ltd. (supra) had given categorical finding that assessment stemming from searches must be grounded on 'incriminating material' with year wise nexus where the AO must first pinpoint which unabated assessment years were tied to the 'incriminating material' found during the search and only those years might face revisit to unabated assessments under section 153A of the Act. Similar legal principles had been applied in toto to the jurisdictional fetters laid down under section 153C of the Act by the Hon'ble Supreme Court in the case of Sinhgad Technical Education Society [2017] 84 taxmann.com 290. He thus, contended that jurisdictional necessity under section 153A of the Act that 'incriminating material' had not only be found during the search but

also had to be directly relatable to the respective AY to reexamine/reopen/revisit.

9. The Ld. AR contended that 'incriminating material' based on which assessments of unabated years finalized were either seized incriminating material from third party (other than the assessee) or inferences drawn/emerged from analysis and investigations of assessee's Balance Sheets/Statement of Affairs/Profit & Loss Accounts, etc. Since there was no 'incriminating material' found in search operations carried on the assessee under section 132 of the Act; therefore, unabated assessments could not be revisited. Therefore, no addition based on any information/incriminating material from third party could be done as unabated assessment revisiting, in absence of 'incriminating material' seized from the assessee, had to be completed without any addition, contended the Ld. AR. The Ld. AR further contended that the Ld. CIT-DR had not brought any material on the record to establish that there was any 'incriminating material' seized from the assessee. He thus, prayed for quashing of the assessment orders and impugned orders on jurisdictional issue.

10. The Ld. AR submitted that the bank locker co-owned by the assessee and his wife was searched. No addition in the case of assessee's wife was made in any AY as there was no incriminating material.

11. Before us, the Ld. CIT-DR, placing emphasis on the finding of the Ld. CIT(A) and Ld. AO prayed for dismissal of these appeals. With the help of facts

mentioned in orders of Authorities below, the Ld. CIT-DR submitted that the incriminating material found in search carried out on the assessee's Group of cases were nothing but incriminating material found in the search. The Ld. CIT-DR further vehemently argued the case by submitting that the incriminating material referred in section 153A of the Act did not necessarily have to be seized in searches carried out on the assessee under section 132 of the Act as the section 153A of the Act did not mandate so. His proposition was that the search carried out under section 132 of the Act mandated initiation of proceedings under section 153A of the Act and completion of the said proceedings with the consequential assessments based on the incriminating material available from all sources as one and only one assessment had to be made after search under section 132 of the Act as it was not a case of assessment of undisclosed income only (Reference was invited to the erstwhile section 158BC and 158BD of the Act).

12. We have heard both parties and have perused the material available on the record. We find force in the arguments/submissions/contentions of the Ld. AR. We are of the considered view that the assessment under section 153A of the Act in the case of unabated AYs have necessarily to be concluded exclusively on "incriminating material" discovered during the course of assessee's own search. In absence of such material, the original assessment for the unabated AYs must remain undisturbed. Therefore, for unabated assessment, the assessment under section 153A of the Act is permissible only

if incriminating material for the concerned year is discovered/found during the course of assessee's own search. In absence of incriminating material, addition cannot be made for completed/unabated years under section 153A of the Act, but such years can still be reopened under section 147/148, subject to those procedures, as held by the Hon'ble Supreme Court in the case of Abhisar Buildwell (P.) Ltd. (supra). We therefore, set aside all impugned orders of the Ld. CIT(A) and quashed all assessments of AYs 2011-12, 2013-14 to 2016-17. All issues other than jurisdictional issue are left open as such grounds become academic in nature. Accordingly, the appeal of assessee for AYs 2011-12, 2013-14 to 2016-17 stand allowed as above.

**ITA No. 76/DDN/2024, AY 2017-18:**

13. The Ld. AR questioned the selection of the case of the relevant year under scrutiny as there was no incriminating material and thus, prayed for quashing the assessment. However, the Ld. AR did not bring any material on the record to contradict the finding of the Ld. CIT(A). On the other hand, the Ld. CIT-DR submitted that it was a case of abated assessment and therefore, it was the prerogative of the AO to select the case under scrutiny. There was no irregularity in picking the case under scrutiny for any reason following CBDT guidelines.

14. We have heard both parties and have perused the material available on record. Since no material has been brought on the record by the Ld. AR to contradict the finding of the Ld. CIT(A); therefore, we do not find any infirmity

in the order of the Ld. CIT(A)and thus, decline to interfere with. This appeal of the assessee thus stand dismissed.

**ITA No. 210, 62, 63, 74, 75 & 76/DDN/2024:**

15. In the result, assessee's appeals; ITA No. 210, 62, 63, 74 & 75/DDN/2024, of AYs 2011-12, 2013-14 to 2016-17 are allowed as above. and the assessee's appeal; ITA No. 76/DDN/2024, of AY 2017-18 stands dismissed as above.

Order pronounced in open Court on 20<sup>th</sup> November, 2025

**Sd/-**

**(C.N.PRASAD)  
JUDICIAL MEMBER**

**Sd/-**

**(AVDHESH KUMAR MISHRA)  
ACCOUNTANT MEMBER**

Dated:20/11/2025  
*Binita, Sr. PS*

Copy forwarded to:

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

ITAT, NEW DELHI

ASSISTANT REGISTRAR