

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “A” BENCH: NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.203/Del/2025  
[Assessment Year : 2018-19]**

Murari Lal Harish Chand Jaiswal Pvt. Ltd., 6043, Naya Bans, Chandni Chowk, Delhi-110006. <b>PAN-AAACM6428P</b>	vs	DCIT Central Circle-31, Delhi
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Pranav Yadav, Adv.	
<b>Respondent by</b>	Shri Jitender Singh, CIT DR	
<b>Date of Hearing</b>	26.11.2025	
<b>Date of Pronouncement</b>	22.01.2026	

**ORDER**

**PER MANISH AGARWAL, AM :**

The present appeal is filed by assessee against the order dated 19.12.2024 passed by Ld. Commissioner of Income Tax (A)-30, New Delhi [“Ld.CIT(A)”] in Appeal No.30/10268/2017-18 u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of assessment order dated 22.12.2021 passed u/s 153A of the Act pertaining to Assessment Year 2018-19.

2. Brief facts of the case are that assessee company is a firm, engaged in the business of manufacture of tobacco products and derived income from Profits and gains from business and from capital gain/loss and filed its return of income on 28.09.2018, declaring

income of INR 1,09,82,630/-. The case was selected for scrutiny under CASS for following two issues:-

- (i) ICDS compliance and adjustment
- (ii) income u/s 56(2)(x)

3. Thereafter, statutory notices u/s 143(2)9 and 142(1) of the Act were issued from time to time. After considering the submission made in response to the notices, order passed u/s 143(3) of the Act dated 16.02.201 wherein addition of INR 2,32,89,787/- was made u/s 56(2)(x) of the Act. In the meantime, a search and seizure action was carried out by the Department on 06.01.2021 and since the year of appeal i.e. AY 2018-19 has fallen in the block period of 06 years, proceedings u/s 153A of the Act were initiated and case of the assessee was centralized in terms of the order passed u/s 127 dated 17.02.2021. Thereafter, notice u/s 153A was issued on 15.04.2021 and the assessment u/s 153A of the Act was completed vide order dated 22.12.2021 at a total income of INR 3,42,72,420/- which includes the adjustment/addition made in the order passed u/s 143(3) of the Act dated 16.02.2021.

4. Against the said order passed u/s 153A dated 22.12.2021, the assessee filed an appeal before Ld. CIT(A) who vide impugned order dated 19.12.2024, dismissed the appeal of the assessee and confirmed the addition made u/s 56(2)(x) of the Act and reduced the addition to INR 1,81,53,778/-.

5. An appeal was also filed against the order passed u/s 143(3) dated 16.02.2021, before Ld. CIT(A) who has decided the same in terms of order dated 04.01.2024 wherein Ld.CIT(A) has allowed the appeal of the assessee and annulled the order passed u/s 143(3) by observing that before passing the order u/s 143(3), search proceedings u/s 132 of the Act were initiated by the Revenue and therefore, all the pending proceedings as on the date of search stood abated including the assessment proceedings under progress u/s 143(3) of the Act for AY 2018-19. However, despite of this fact, since the AO had proceeded and completed the assessment proceedings and passed the assessment order u/s 143(3) dated 16.02.2021 therefore, the said order was held as annulled by Ld.CIT(A).

6. Thereafter, ld. CIT(A) vide impugned order dated 19.12.2024 passed in the appeal filed by the assessee against the assessment order passed u/s 153A dated 22.12.2021, observed that though the order passed u/s 143(3) was annulled however, the issue of addition u/s 56(2)(x) of the Act, could be examined in the proceedings u/s 153A of the Act and therefore, he confirmed the addition.

7. Aggrieved by the said order, assessee filed the present appeal before the Tribunal wherein the assessee has raised following grounds of appeal:-

1. *“On the facts and circumstances of the case and in law, the addition made by the assessing officer (by adopting the earlier assessed income u/s 143(3) of the act) is not sustainable as it is based on an assessment order which itself is infructuous and non-est and CIT(A) erred in not holding so.*

2. *On the facts and circumstances of the case and in law, the assessing officer erred in adopting the earlier assessed income based on an assessment order under section 143(3) (which itself is non-est) as assessed income u/s. 153A / 143(3) and CIT(A) erred in not holding so.*
3. *On the facts and circumstances of the case and in law, the CIT(A) erred in holding that addition u/s 56(2)(x) is upheld.*
4. *On the facts and circumstances of the case and in law, the CIT(A) erred in holding that disallowance u/s 56(2)(x) is restricted to Rs. 1,81,53,778/-/On the facts and circumstances of the case and in law, the CIT(A) ought to have deleted the entire addition/disallowance.*
5. *On the facts and circumstances of the case and in law, the assessment order passed by the assessing officer is contrary to the provisions of section 153D of the Income Tax Act, 1961 and CIT(A) erred in not holding so.”*

8. Heard the contentions of both parties and perused the material available on record. At the outset, it is seen that in this case, the AO has passed the assessment order u/s 143(3) on 16.2.2021 though a search and seizure operation was carried out u/s 132 of the Act on 06.01.2021 and therefore, the proceedings pending as on the date of initiation of search sought abated. Even though the AO has proceeded to complete the assessment and made the additions u/s 56(2)(x) of the Act. It is further observed that Ld. CIT(A) in first appeal vide order dated 04.01.2024 annulled the said order passed u/s 143(3) of the Act. However, in the subsequent order passed u/s 153A dated 22.12.221, the AO has again made the addition of INR 2,32,89,790/- without making any discussions/observations with respect to the additions so made and simply added the same in the computation of income by observing “*adjustment made in earlier order u/s 143(3) r.w.s. 147 r.w.s. 153A r.w.s. 153C of the Act*”.

9. It is a settled position of law that in the order passed u/s 153A of the Act, additions could have been made based on the incriminating material. In the instant case, though the proceedings u/s 143(3) were in progress when the search was carried out however, there is no document found as a result of search indicating any unexplained, unaccounted payment made at the time of acquisition of property for which the provisions of u/s 56(2)(x) of the Act could be invoked. This view is supported by the judgement of Hon'ble Supreme Court in the case of **PCIT, Central Circle-3 Vs. Abhisar Buildwell (2023) 454 ITR 212** (S.C) dated 12.05.2023 wherein it is held as under:-

*"14. 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."*

10. In view of the above discussion and by respectfully following the judgement of Hon'ble Supreme Court in the case of Abhisar Buildwell (supra) we are of the considered view that no addition could be made in the order passed u/s 153A without any incriminating material and therefore, addition of INR 2,32,89,790/- as reduced to INR 1,81,53,788/- by Ld. CIT(A) made without any incriminating material is hereby, deleted.

11. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 22.01.2026.

**Sd/-**

**(MAHAVIR SINGH)  
VICE PRESIDENT**

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Date- 22.01.2026**

*\*Amit Kumar, Sr.P.S\**

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ASSISTANT REGISTRAR  
ITAT, NEW DELHI