

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, DEHRADUN**
Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Manish Agarwal, Accountant Member

MA No. 3/DDN/2022 : Asstt. Year: 2009-10
&

ITA No. 5579/Del/2015 : Asstt. Year: 2009-10

DCIT, Circle-2, Dehradun, Uttarakhand-248001 (APPELLANT)	Vs	M/s Kanatal Resorts & Spa P. Ltd., 20/06, East Patel Nagar, New Delhi-110008 (RESPONDENT)
PAN No. AACCK6377P		

Assessee by : Sh. P. C. Yadav, Adv. &
Sh. Manish Yadav, Adv.
Revenue by : Ms. Poonam Sharma, CIT-DR

Date of Hearing: 16.01.2026	Date of Pronouncement: 16.01.2026
------------------------------------	--

ORDER

Per Satbeer Singh Godara, Judicial Member:

This Revenue's miscellaneous application MA No. 3/DDN/2022 filed u/s 254(2) of the Act, seeks to recall/rectify the tribunal's order dated 28.10.2021 dismissing its main appeal ITA No. 5579/Del/2015 as involving lower than the prescribed tax effect of Rs.50 lacs as per CBDT's Circular No. 17/2019 dated 08.08.2019.

2. Heard both the parties at length. Case file(s) perused.
3. Learned CIT-DR submits that our impugned order suffers from an apparent mistake since the tax effect involved in the

Revenue's main appeal herein is Rs.1,14,04,140/- than that of Rs.50lacs or less. The assessee is equally fair in not disputing this clinching factual position. We thus treat our impugned order dated 28.10.2021 as suffering from an apparent mistake which stands recalled in very terms. This Revenue's miscellaneous application MA No. 3/DDN/2022 is accepted.

4. Learned counsel next invites our attention to the CIT(A)'s lower appellate discussion at page 5 para 3.1 rejecting the assessee's legal ground thereby concluding that it is nowhere necessary for an assessment u/s 153A of the Act that any addition made in course thereof is to be based on the corresponding seized material unearthed in the section 132 search action. It is further made clear that the impugned assessment year 2009-10 happens to be an "unabated" one as on the date of search i.e. 22.09.2011. Mr. Yadav accordingly invokes Rule 27 of the Income Tax (Appellate Tribunal) Rules that since the foregoing legal issue now stand settled in the assessee's favour in PCIT vs. Abhisar Buildwell Pvt. Ltd. (2023) 454 ITR 212 (SC). The impugned assessment itself framed by the Assessing Officer on 24.03.2014 is non-est in the eyes of law in very terms.

5. We afforded due opportunity to the department to refer to any incriminating material against the assessee found/seized during the course of search wherein no such records could be produced. That being the case, we conclude that the impugned assessment itself framed on 24.03.2014 u/s 153A of the Act is not sustainable in law for want of any incriminating material found/seized during the departmental search action. The same stand quashed in very terms therefore.

6. All other pleadings on merits stand rendered academic.

7. To sum up, this Revenue's miscellaneous application MA No. 3/DDN/2022 is allowed and its main appeal ITA No. 5579/Del/2015 is dismissed in foregoing terms. A copy of this common order be placed in the respective case files.

Order Pronounced in the Open Court on 16/01/2026.

Sd/-

(Manish Agarwal)
Accountant Member
Dated: 10/02/2026

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR