



§~1 & 2

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 04.10.2023**

+ **ITA 251/2019**

THE PR. COMMISSIONER OF INCOME TAX - CENTRAL -3

..... Appellant

Through: Mr Shlok Chandra, Sr. Standing Counsel with Ms Priya Sarkar, Jr. Standing Counsel, Ms Madhavi Shukla, Jr. Standing Counsel and Ms Vanshika Taneja, Adv.

versus

SIDHI VINAYAK AROMATICS PVT. LTD. .... Respondent

Through: None.

+ **ITA 265/2019**

THE PR. COMMISSIONER OF INCOME TAX - CENTRAL -3

..... Appellant

Through: Mr Shlok Chandra, Sr. Standing Counsel with Ms Priya Sarkar, Jr. Standing Counsel, Ms Madhavi Shukla, Jr. Standing Counsel and Ms Vanshika Taneja, Adv.

versus

SIDHI VINAYAK AROMATICS PVT. LTD. .... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

[Physical Hearing/Hybrid Hearing (as per request)]

**RAJIV SHAKDHER, J. (ORAL):**

1. These appeals concern Assessment Year (AY) 2006-07 (ITA



251/2019) and AY 2005-06 (ITA 265/2019).

2. The appellant/revenue seeks to assail the common order dated 07.12.2017 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

3. The Tribunal has disposed of the appeals of the appellant/revenue and the cross-objections filed by the respondent/assessee against the common order of the Commissioner of Income Tax (Appeals) [in short, “CIT(A)"] order dated 25.03.2011 based on a view taken *qua* a legal issue.

4. The Tribunal found that in respect of the aforementioned AYs in which assessments were completed, no incriminating material had been found.

4.1 In support of its conclusion that additions made were unsustainable in view what is adverted to hereinabove, the Tribunal, *inter alia*, relied upon the judgment rendered by a coordinate bench of this Court in ***Commissioner of Income Tax vs. Kabul Chawla*** (2016) 380 ITR 573 (Del.)

5. Mr Shlok Chandra, learned senior standing counsel, who appears on behalf of the appellant/revenue, does not dispute the fact that no incriminating material was found pursuant to the search carried out under Section 132 of the Income Tax Act, 1961 [in short, “Act”] against the Surya Vinayak Group, which included the respondent/assessee, concerning the aforementioned AYs.

6. These findings of fact are recorded in paragraph 10 of the impugned order passed by the Tribunal. For convenience, the relevant part of paragraph 10 is extracted hereafter:

“xxx                      xxx                      xxx                      xxx  
We find that the additions made by the AO are beyond the scope



*of section 153C of the Income Tax Act, 1961, because no incriminating material or evidence had been found during the course of search so as to doubt the transactions. It was noted that in the entire assessment order, the AO has not referred to any seized material or other material for the year under consideration having being found during the course of search in the case of assessee, leave alone the question of any incriminating material for the year under appeal.*

xxx

xxx

xxx

xxx”

7. Notably, the decision of the coordinate bench of this court in ***Kabul Chawla*** has been affirmed by the Supreme Court in ***Principal of Income Tax vs. Abhisar Buildwell***, (2023) 454 ITR 2012 (SC).
8. Given the aforesaid position, according to us, no substantial question of law arises for our consideration.
9. Accordingly, the above-captioned appeals are closed.
10. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**OCTOBER 4, 2023/R.Y**

[Click here to check corrigendum, if any](#)