

2023 LiveLaw (SC) 532

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

C.T. RAVIKUMAR; J., MANOJ MISRA; J.

Civil Appeal No. 4326/2023 (Arising out of SLP(Civil) No. 7999/2023) July 10, 2023

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL) 2 versus KING BUILDCON PVT. LTD.

Income Tax Act, 1961; Sections 132, 132A, 147, 148, 153A - In view of the judgment of the Supreme court in [Principal Commissioner of Income Tax vs. Abhisar Buildwell Pvt. Ltd.](#), [(2023) SCC Online SC 481], an Assessing Officer (AO) cannot make additions to assessee's income in respect of completed / unabated assessments if no incriminating material has been found during the course of search under Section 132 or requisition under Section 132A of the Income Tax Act, 1961. However, in terms of the said judgment, 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 mentioned under the said provisions - Therefore, AO's powers under Sections 147/148 of the Income Tax Act were saved in terms of Supreme Court's judgment in *Abhisar Buildwell (2023)*.

For Petitioner(s) Mr. Balbir Singh, A.S.G. Mr. Raj Bahadur Yadav, AOR Mr. Shashank Bajpai, Adv. Mr. Ashok Panigrahi, Adv. Mr. Durga Dutt, Adv. Mr. Rupender Sinhmar, Adv. Mr. Ak Kaul, Adv.

For Respondent(s) Mr. Gautam Jain, Adv. Mr. Rahul Gupta, AOR

ORDER

Leave granted.

2. This appeal is directed against the final judgment and order dated 22.4.2022 passed by the High Court of Delhi at New Delhi in ITA No. 100/2022.
3. It is submitted by the learned counsel on both sides that the issue involved in this appeal is squarely covered by the decision of this Court in *Municipal Commissioner of Income Tax v. Abhisar Buildwell Pvt. Ltd.* [(2023) SCC Online SC 481]. In the light of the dictum laid down thereunder and in view of the indisputable fact that during the search no incriminating material was found, this appeal must fail. Consequently, it is dismissed.
4. However, in view of the decision in *Abhisar's* case (supra), completed/unabated assessments could be re-opened by the AO in exercise of powers under Sections 147/148 of the Income Tax Act subject to fulfilment of the conditions envisaged under Sections 147/148 of the Income Tax Act and hence, such powers are saved in terms of the said judgment.
5. Subject to the above, the appeal stands dismissed.
6. Pending application(s) shall also stand disposed of.

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