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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
&
HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA
ON THE 2nd OF FEBRUARY, 2023
INCOME TAX APPEAL No. 222 of 2022**

BETWEEN:-

**PR. COMMISSIONER OF INCOME TAX (CENTRAL)
AAYKAR BHAWAN HOSHANGABAD ROAD BHOPAL
(MADHYA PRADESH)**

.....APPELLANT

(MS VEENA MANDLIK, LEARNED COUNSEL FOR THE APPELLANT)

AND

**M/S GREAT GALLEON VENTURES LTD. ADD: 308-309,
PRINCES BUSINESS SKYPARK VIJAY NAGAR, INDORE
(MADHYA PRADESH)**

.....RESPONDENTS

***(SHRI IBRAHIM KANNODWALA, LEARNED COUNSEL FOR THE
RESPONDENT [R-1].***

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*This appeal coming on for admission this day, **JUSTICE SUSHRUT
ARVIND DHARMADHIKARI** passed the following:*

ORDER

This appeal u/S 260A of the Income Tax Act 1961(for short, the Act of 1961 hereinafter) is directed against the order dated 23.12.2021 passed by the Income Tax Appellate Tribunal, Bench Indore in ITA No. 67/Ind/2021(Revenue's Appeal) for the Assessment Year 2015-16.

The substantial question of law which has been raised by the appellant in this appeal is "whether in absence of any incriminating documents seized during the course of search, the Assessing Officer is justified in making the addition in

non-abated assessment orders u/S 153-A r/W Sec 143(3) of the Act of 1961.”

The assessment is u/S 153A r/W Sec 143(3) of the Act of 1961 for the assessment year 2015-16.

Learned Tribunal was in seisin with the appellant and cross appeals arising from respective orders passed by the Commissioner Income Tax(Appeals). The appeal before the CIT(Appeals) was directed against the addition of income by the Assessing Officer taking production on presumptive basis and working out estimated income.

The factum of addition not being based on any incriminating material found during the search is not disputed.

Exactly identical substantial question of law came up for consideration before the Division Bench of this Court at Gwalior Bench in ITA No. 21/2019, ITA No. 31/2019 and ITA No. 32/2019(Principal Commissioner of Income Tax Vs. Gahoi Foods Private Ltd). Vide order dated 12.07.2019, these appeals were disposed of holding that in the given facts of the present case, as no incriminating documents during the course of search were found, the order in appeal cannot be said to have suffered any illegality as would give rise to proposed substantial question of law. Consequently, the appeals were dismissed.

In view of the fact that the aforesaid question of law was dealt by the Division Bench of this Court in the aforesaid cases, no different view can be taken in this appeal.

Accordingly, finding no substantial question of law, this appeal fails and is hereby dismissed.

(S. A. DHARMADHIKARI)
JUDGE

(PRAKASH CHANDRA GUPTA)
JUDGE

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