



2026:DHC:120-DB



\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision:- 7th January, 2026.*

+ ITA 699/2025 and CM APPL. 75698/2025

THE PR. COMMISSIONER OF INCOME

TAX -CENTRAL -1

.....Appellant

Through: Mr Ruchir Bhatia, SSC and Mr.
Anant Mann, JSC.

versus

SOM HARI INFRASTRUCTURE PVT. LTD.

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****J U D G M E N T****DINESH MEHTA, J. (Oral)**

1. The present appeal relates to the addition of a sum of Rs.21,00,00,000/- to the returned income in the hands of the respondent-assessee for the Assessment Year (AY) 2012-13, which was made by the Assessing Officer (AO) holding, *inter alia*, that the concerned firm located in Kolkata did not have creditworthiness.

2. The Commissioner of the Income Tax (Appeals)-24 (*hereinafter referred to as 'CIT(A)'*) set aside the aforesaid addition vide his order dated 22.06.2020 holding that there was no incriminating material unearthed during the search proceedings. And the conclusion that the firm at Kolkata, which had advanced sum of Rs.21,00,00,000/- did not have creditworthiness was drawn only during the assessment proceedings. The CIT(A) also relied upon judgment of this Court in the case of **Commissioner of Income-tax**



2026:DHC:120-DB



(Central)-III vs. Kabul Chawla, reported in [2015] 61 taxmann.com 412 (Delhi) and deleted the addition so made.

3. It is to be noted that the judgment of this Court rendered in the case of ***Kabul Chawla (supra)*** has been affirmed by Hon'ble the Supreme Court in the case of **Principal Commissioner of Income Tax, Central-3 vs. Abhisar Buildwell Private Limited** reported in (2024) 2 SCC 433.

4. In an appeal filed by the Department, against the above referred order of the CIT(A) dated 22.06.2020, the Income Tax Appellate Tribunal, (Delhi Bench 'G' New Delhi) also took the same view vide order dated 30.04.2025 and recorded a finding that since there was no incriminating material with the AO during the search and hence, therefore, addition for the Assessment Year 2012-13 was impermissible in law as the proceedings emanated from search.

5. Having heard learned counsel for the appellant and upon perusal of the orders under consideration, we are of the firm view that the issue is essentially that of facts and does not involve question of law.

6. That apart, it is a settled position of law that in case no incriminating material is found for the relevant assessment year, the AO cannot make addition as has been held in ***Kabul Chawla (supra)***.

7. The appeal alongwith pending application is, therefore, dismissed.

**DINESH MEHTA
(JUDGE)**

**VINOD KUMAR
(JUDGE)**

JANUARY 7, 2026/MR