

**Court No. - 3**

**Case :-** INCOME TAX APPEAL No. - 58 of 2022

**Appellant :-** The Pr Commissioner Of Income Tax 1 Aaykar Bhawan Kanpur And Another

**Respondent :-** Manoj Kumar Agarwal

**Counsel for Appellant :-** Gaurav Mahajan, Manu Ghildyal

**Hon'ble Surya Prakash Kesarwani, J.**

**Hon'ble Chandra Kumar Rai, J.**

Heard Sri Gaurav Mahajan, learned counsel for the appellants-Income Tax Department and Sri Ashish Bansal, learned counsel for the respondent assessee who states that vakalatnama has already been filed by Sri Ashish Bansal.

Learned counsel for the appellants submits that in this Income Tax Appeal filed by the Revenue, following substantial questions of law are stated to be involved:

- (i) Whether assessment or re-assessment under Section 153-A of the Income Tax Act 1961, can be framed only on the basis of incriminating material found during course of search under section 132 of the Act.
- (ii) Whether assessment or re-assessment under Section 153-A of the Income Tax Act 1961 can be framed where no incriminating material has been found in the search under Section 132 of the Act.

He submits that the aforesaid substantial questions of law have been answered by this Court in bunch of appeals being leading **Income Tax Appeal No.51 of 2021 (Pr. Commissioner Of Income Tax vs. M/S Shri Mehndipur Balaji)** decided on **04.07.2022** in which both the above questions have been answered in favour of the Revenue and after setting aside the order of the Tribunal, the appeals have been restored before the Tribunal to its original number and the Tribunal has been directed to decide the appeals afresh on merit in accordance with law.

Learned counsel for the respondent - assessee does not dispute the facts and legal position as stated by learned counsel for the appellant as aforesaid.

In view of the aforesaid, the substantial questions of law involved in this appeal stand concluded by judgment of this Court in the case of **M/S Shri Mehndipur Balaji (supra)**.

In view of the aforesaid, the appeal is admitted and allowed with the consent of learned counsels for the parties in terms of the **judgment dated 04.07.2022 in Income Tax Appeal No.51 of 2021 (Pr Commissioner Of Income Tax vs. M/S Shri Mehndipur Balaji)** and other connected appeals. The impugned order of the Income Tax Appellate Tribunal (ITAT) is hereby set aside and the appeal before the Tribunal is restored to its original number. The ITAT is directed to decide the appeal afresh on merit in accordance with law after affording reasonable opportunity of hearing to the parties.

**Order Date :-** 22.7.2022

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