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Tax Digest

- Recent case laws

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Income Tax Dept. Conducts Search Operations at More Than 50 Premises Linked to 'Polycab India'

Press Release, dated 10-01-2024

The Income Tax Department initiated search and seizure operations in the case of a group engaged in manufacturing wires, cables and other electrical items. The search was conducted at more than 50 premises located in Mumbai, Pune, Aurangabad, Nasik, Daman, Halol, and Delhi.

During the search operation, a large number of incriminating evidence in the form of documents and digital data have been found & seized. Credible evidence recovered during the search has established that the flagship company has made unaccounted cash sales of around Rs. 1,000 crores, which are not recorded in the books of accounts. Evidence of unaccounted cash payments of more than Rs. 400 crores made by a distributor, on behalf of the flagship company, towards purchases of raw materials has also been seized.

1. No Substantial Question of Law Arose If Order of CIT(A) Was Never Contested on Merit By Revenue

In the instant case¹, the Assessing Officer (AO) made additions to the assessee's income in respect of unsecured loans and unverifiable purchases. However, the CIT(A) deleted the additions made by the AO. On appeal, the Tribunal upheld the order of CIT(A).

Aggrieved by the order, the AO filed an appeal before the Punjab and Haryana High Court.

The High Court held that the AO had taken the shorter route of considering the purchases to be bogus merely on the basis of non-response verification letters issued under the provisions of section 133(6). Resultantly, CIT(A) set aside the action of the AO since there was already specific material adduced by the assessee .

AO's comments in the order of the assessment, at one place, stated that the return of income was not legible and the bank statement was difficult to read and resultantly concluded that the creditworthiness and genuineness of the transaction were not proved. Similar observations have also been made for rejecting the entries without any reasons given.

The CIT(A) allowed the appeal, and the order of CIT(A) was never contested on merits before the Tribunal but only on the technicality that additional evidence was produced, which did not come forth from the facts and circumstances, and neither was any material produced.

Accordingly, the substantial questions of law were not made out, and the appeal was to be dismissed.

¹ Principal Commissioner of Income-tax (Central) vs. Arora Iron & Steel Rolling Mills (P.) Ltd. [2024] (High Court of Punjab and Haryana)

2. HC Deletes Penalty As No Cash Involved If Lender Repaid Loan by Paying to Third Party As Per Assessee's Instructions

In the instant case², the Assessee-company had advanced a sum to a company 'S', which, in turn, made repayment to three entities on instructions of assessee. Suitable entries had been made in the books of 'S' and the assessee's books with regard to the reduction of liabilities of 'S'.

The Assessing Officer (AO) held that there was cash transaction and, therefore, construed the entire repayment of the loan by 'S' as income of the assessee and passed the assessment order imposing the penalty under section 271E.

Assessee filed writ petition before the Madras High Court.

The High Court held that the grant of loan by the assessee to 'S' and repayment of the same made by 'S' to three different entities was based on the instructions of the assessee. Suitable entries were made both in the books of account of the assessee as well as 'S' to discharge liabilities. Also, the same was reflected in the audited books of account.

Further, the liability of 'S' was reduced to an extent on payment made to clear the liabilities of the assessee, which appeared to be in accordance with the law and was permissible. Hence, the question of dealing with cash transactions did not arise.

In the instant case, the initiation of proceedings against the assessee appeared to have been made under the wrong assumption that there was a cash transaction. Therefore, the penalty proceedings passed under section 271E were to be set aside.

² Anamallais Bus Transports (P.) Ltd. vs. Principal Commissioner of Income-Tax [2024] (High Court of Madras)

3. SC Granted an Interim Stay on HC's Order that Sec. 292B Can't Rectify Error of Failure to Mention DIN in Order

In the instant case³, the Supreme Court of India has granted an interim stay on the order of the High Court, quashing the final order passed by the Assessing Officer as it didn't bear the document identification number (DIN).

The High Court has ruled that the object and purpose of the issuance of Circular No. 19/2019, dated 14-8-2019, was to create an audit trail. Thus, communication related to assessments, appeals, and orders without DIN (document identification number) would have no legal standing.

The final assessment order issued by the Assessing Officer lacked a DIN, and there was no evidence on record indicating exceptional circumstances, as outlined in Circular No. 19/2019, that would justify the manual communication of the final assessment order without a DIN.

Further, failing to assign a DIN was not a correctable error under Section 292B.

4. No Penalty Proceedings u/s 270A If Additions Were Made Based on Voluntary Disclosure By Assessee

In the instant case⁴, the assessee filed its original return of income under Section 139(1) for the Assessment Year 2018-19. During the scrutiny proceedings, the assessee realized that the

'provision for doubtful GST input tax credit' had been inadvertently merged with another expense account and mistakenly claimed as deduction.

Accordingly, the said amount was suo moto surrendered by the assessee by revising its return of income and adding back the amount 'provision for doubtful GST input tax credit', to the total income.

The Assessing Officer (AO) passed the assessment order, and a penalty under section 270A was imposed for misreporting of income.

The assessee filed an application under section 270AA against such penalty order, but it was rejected. Subsequently, the assessee challenged the rejection through a petition under section 264, which was also denied.

Assessee filed a writ petition before the Rajasthan High Court.

The High Court ruled that the revising authority, without providing any substantial reasons and in a perfunctory manner, merely suggested that the assessee's case fell under both Clause (a) and (c) of Section 270A(9).

The merging GST Input Credit with expenses was not pointed out/detected by AO, and the same was only pointed out voluntarily by the assessee. Therefore, sub-Clauses (a) and (c) of Section 270A (9) are not attracted.

Moreover, it was evident that the Deputy Commissioner breached the stipulations of the proviso to Section 270AA(4) by neglecting to afford any opportunity for a hearing. The order he issued was extremely brief, and it failed to specify the section under which the assessee's case fell within Section 270A(9).

³ Commissioner of Income-tax v. Brandix Mauritius Holdings Ltd. - [2024] 247 (Supreme Court of India)

⁴ Chambal Fertilizers and Chemicals Ltd. vs. Office of the Principal Commissioner of Income-tax - [2024] (High Court of Rajasthan)

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The fact that the indications were made that the matter falls within (a) and (c) necessarily means that even he was not sure whether it was a case of misrepresentation, suppression of facts, or claim of expense not substantiated by any evidence.

Therefore, the order passed by the revisional authority rejecting the revision petition cannot be sustained.