

S. 263 Assessing Officer did not write specific reasons for accepting the explanation of the assessee cannot be reason to invoke revisionary powers

As long as the action of the Assessing Officer cannot be said to be lacking bonafides, his action in accepting an explanation of the assessee cannot be faulted merely because it could have been lawful to make mere detailed inquiries or because he did not write specific reasons of accepting the explanation. As for learned PCIT's observations regarding accepting the explanation "without appropriate evidence", there is nothing to question the bonfides of the Assessing Officer or to elaborate as to what should have been 'appropriate' evidence. The fact remains that the specific issue raised, in the revision order was specifically looked into, detailed submissions were made and these submissions were duly accepted by the Assessing Officer. Merely because the Assessing Officer did not write specific reasons for accepting the explanation of the assessee cannot be reason enough to invoke powers under section 263, and non-mentioning of these reasons do not render the assessment order "erroneous and prejudicial to the interest of the revenue" - Reliance Payment Solutions Ltd. v. PCIT [2022] 136 taxmann.com 277 (Mumbai - Trib.)

S. 36(1)(va) Amended provisions will apply prospectively from AY 2021-22

No disallowance can be made for belated payment of the employee's contribution to the respective ESI and EPF fund in the case of assessee who have deposited the same before the due date of filing of Income Tax Return. Amendment made by the Finance Act 2021 to section 36(1)(va) will apply from AY 2021-22 Raj Kumar v. ITD [2022] 136 taxmann.com 244 (Delhi - Trib.)

S 37(1) Explanation 1 Expenditure on freebies to doctors is not allowed as deduction

The incentives or "freebies" given by pharmaceutical company, to the doctors, had a direct result of exposing the recipients to the odium of sanctions, leading to a ban on their practice of medicine. Those sanctions are mandated by law, as they are embodied in the code of conduct and ethics, which are normative, and have legally binding effect. The conceded participation of the assessee- i.e., the provider or donor- was plainly prohibited, as far as their receipt by the medical practitioners was concerned. That medical practitioners were forbidden from accepting such gifts, or "freebies" was no less a prohibition on the part of their giver, or donor, i.e., pharmaceutical company. Accordingly, expenditure incurred in distribution of such freebies would not be allowed as a deduction in terms of Explanation 1 to section 37(1) Apex Laboratories (P.) Ltd. v. DCIT [2022] 135 taxmann.com 286 (SC)

S. 54 Date of possession is the date of purchase of new house

The requirement of the Section 54 is that the Assessee should purchase a residential house within the specified period and source of funds is quite irrelevant. Nowhere, it has been mentioned that the funds received as consideration from sale of original asset must be utilized for the purchase of the new residential house. Since the date of purchase falls within a period of 2 years from the sale of Original Asset, the Assessee is entitled to benefit under Section 54. The date on which possession is received by the Assessee should be taken as the date of purchase. Reji Easow V. ITO [2022] 136 taxmann.com 111 (Mumbai - Trib.)

S. 143(3) Ex-parte order passed when it was not possible for the director to attend the proceeding, assessment remanded back to Assessing Officer.

In the last few weeks of the relevant previous year, the criminal proceedings were initiated against the assessee and its directors and these proceedings culminated in prison time for the key person behind this company. When someone goes through such an unfortunate patch of time, as the directors of the assessee company, actually did, everything else takes a back seat for a while. That was indeed a tough, challenging and unfortunate patch of time for directors of the assessee company. The non-appearance before the authorities below, in such circumstances, cannot be put against the assessee so as to confirm the impugned additions and this ex-parte assessment. Accordingly, in order to meet the ends of justice that the matter is remanded to the file of the Assessing Officer and the assessee is given one opportunity to produce the requisitioned information and explanations and make his submissions. Shree Naurang Godavari Entertainment Ltd. v. ACIT [2022] 136 taxmann.com 280 (Mumbai - Trib.)

S. 149 If reassessment notice is e-mailed to assessee after time-limit, such notice is time-barred though it was digitally signed by Assessing Officer within time-limit

Considering the provisions of Section 282 and 282 A of the Income-tax Act, 1961 and the provisions of Section 13 of the Information Technology Act, 2000 (IT Act, 2000) and meaning of the word "issue" we find that firstly notice shall be signed by the assessing authority and then it has to be issued either in paper form or be communicated in electronic form by delivering or transmitting the copy thereof to the person therein named by modes provided in section 282 which includes transmitting in the form of electronic record. Section 13(1) of the IT Act, 2000 provides that unless otherwise agreed, the dispatch of an electronic record occurs when it enters into computer resources outside the control of the originator. Thus, the point of time when a digitally signed notice in the form of electronic record is entered in computer resources outside the control of the originator i.e. the assessing authority that shall be the date and time of issuance of notice under section 148 read with Section 149 of the Act, 1961. Accordingly it was held that mere digitally signing the notice is not the issuance of notice. Since the impugned notice under Section 148 of the Act, 1961 was issued to the petitioner on 06.04.2021 through e-mail, therefore, we hold that the impugned notice under section 148 of the Act, 1961 is time barred. Consequently, the impugned notice is quashed - Dajjee Abhushan Bhandar Pvt. Ltd.v. UOI [2022] 136 taxmann.com 246 (Allahabad)

Order of High Court set aside in case its order non-speaking order

The High Court was not right and justified in disposing of the appeal with one paragraph order without discussing the issues which arose for consideration. In view this, order of the High Court is set-aside and matter remitted back to the High Court for fresh consideration purely on its own merits PCIT v. Motisons Entertainment India (P.) Ltd. [2022] 136 taxmann.com 176 (SC)

No presumption that everyone knows law

Ignorance of law is certainly no excuse for a default committed but, at the same time, there is no presumption in law that everybody knows the law. The application of this rule would differ from case to case and person to person. In a given case, there may be a person who is quite illiterate, living in remote village, rarely coming in touch with law enforcing machinery and not required to discharge any statutory obligations under a particular law. Ignorance of law may be a good excuse in his case. Sh. Suresh Kumar Agarwa v. JDIT ITA. Nos. 1073 & 1074/JP/2018 Date of Hearing : 24/02/2022, Date of Pronouncement : 15/03/2022