With Blessings of Devi Saraswati

Presentation on "Assessment, Survey, Search Under Direct Tax Post Demonetization"

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@ Pune
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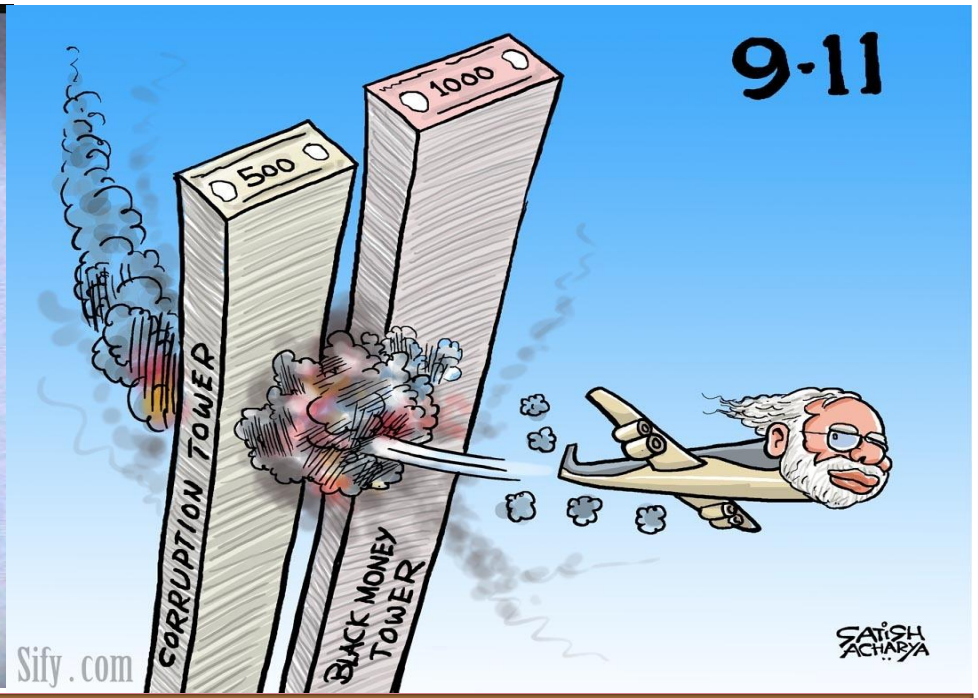
समुद्रीकरण
(India's **BLEXIT)**



Welcome to all Members

DEMONETIZATION

Background

- *After demonetisation of currency notes of Rs. 500 and Rs. 1000, the assessees were depositing such banned currency notes in their bank accounts with a view to claiming the same as their current income taxable under section 115BBE of the Income Tax Act ("the Act"). It was felt that an assessee could not do so as the section did not contemplate any voluntary disclosure scheme and it was an Assessing Officer (AO) alone who could invoke the provisions of this section for taxing the income covered by sections 68 to 69D of the Act. Moreover, as the effective rate of tax including surcharge, cess, etc. varied between 30.9% to 35.535% depending upon the status and income of an assessee, it was felt that the cost of conversion of unaccounted cash in this manner was cheaper than that under the recently concluded Income Declaration Scheme, 2016 and it was not desirable that an assessee should enjoy this advantage.*

Continued….

- *The Taxation Laws (Second Amendment) Bill, 2016 amended section 115BBE of the Act and the Finance Act, 2016 to increase the rate of tax from 30% to 60%, impose surcharge @ 25% of the tax and to provide for penalty @ 10% of tax. The effective rate of tax including surcharge, penalty and cess would stand at 83.25%.*
- *In his opinion, it is irrelevant whether the section contemplates a voluntary disclosure or not.*
- *There is no clear guideline as to what constitutes the nature and source of credits, money, investments, expenses etc. which are the subject-matter of sections 68 to 69D of the Act. Therefore, an assessee may have to pay unjustified tax due to the subjective opinion of an AO, in the matter.*

- *Besides, mid-tem amendment having retrospective operation since beginning of the year discriminates between those who have already deposited money under erstwhile provisions and would do so hereafter after exercising the option of PMGKY. As regards penal provisions, it is said that section 68 to 69D are deeming provisions and so, it cannot be said that by applying these provisions, an AO determines the income in a conclusive manner so as to warrant imposition of penalty.*
- *The amendment retains the essential features of the erstwhile provisions, an assessee can continue to deposit the banned currency notes, as before, albeit, subject to a higher rate of tax. The amendment supports his view that an assessee can invoke the provisions of section 115BBE for declaring unaccounted cash [in this regard reference may be made to the proviso to section 271AAC(1)] and therefore, it is irrelevant whether this section contemplates a voluntary disclosure or not*

Introduction

- *. The provisions of Section 115BBE were inserted in the Income Tax Act, 1961 {"the Act") by Finance Act, 2012 with effect from 1st April, 2013. The Explanatory Memorandum accompanying the relevant Finance Bill stated the object of the insertion of this provision as curbing the practice of laundering of unaccounted money by taking advantage of basic exemption limit. But deviating from the stated object, it proposed to tax the unexplained credits, money, investment, expenditure, etc., which are deemed as income under section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of 30% (plus surcharge and cess), without allowing any deduction for any expenditure or allowance.*
- *An Assessing Officer (AO) makes an addition to the returned income under section 68, section 69, applicable), section 69A, section 69B, section 69C or section 69D of the Act (hereinafter referred to as "the group of six sections") when in his opinion, an assessee fails to explain the nature and source of the income, to his satisfaction. An AO is not required to allege and/or record a finding of 'money-laundering' for making such additions.*

What is "Money-Laundering"?

- *Section 2(p) of the Prevention of Money Laundering Act, 2002 ("PMLA") stipulates that the term "money-laundering" has the meaning assigned to it in its Section 3 which reads as under:*
- *Offence of money-laundering "Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering.“*

Continued…..

- *The term "money-laundering" has been explained by the Institute of Chartered Accountants of India also in its publication titled as "A Study on Money Laundering - An Accountant's Perspective" and in its Chapter 2 titled as "What is Money Laundering?", it is stated as under:*
- *"2.01 Money laundering refers to a complex chain of activities whereby vast amounts of cash generated from illegal activities (for example, selling of narcotics, drugs, extortion, illegal trading in arms, gambling and illicit liquor) is put through a cycle of transactions (washed) so that it comes out at the other end as legal or clean, money. In other words, the source of illegally obtained funds is obscured through a succession of transfers and deals in order that those same funds can eventually be made to appear as legitimate money."*

- ***Where appellant accused failed to explain source from where he had acquired huge amount of demonetized currency recovered from him, his prayer for bail on being arrested for offence u/s 3&4 of PML Act was rightly rejected***
- *Bail application of appellant accused who was arrested for offence u/s 3&4 of PML Act for depositing Rs. 38.53 Crore in cash of demonetized currency into bank accounts of companies and getting demand drafts issued in fictitious names with intention of getting them cancelled and thereby converting demonetized currency into monetized currency on commission basis was rejected*

[2017] 87 taxmann.com 260 (SC)

SUPREME COURT OF INDIA

Rohit Tandon

v.

Enforcement Directorate

- ***Section 45(1) of the Prevention of Money-Laundering Act, 2002, insofar as it imposes two further conditions for release on bail, to be unconstitutional as it violates Articles 14 and 21 of the Constitution of India***
- *Regard being had to the above, we declare Section 45(1) of the Prevention of Money-Laundering Act, 2002, insofar as it imposes two further conditions for release on bail, to be unconstitutional as it violates Articles 14 and 21 of the Constitution of India. All the matters before us in which bail has been denied, because of the presence of the twin conditions contained in Section 45, will now go back to the respective Courts which denied bail. All such orders are set aside, and the cases remanded to the respective Courts to be heard on merits, without application of the twin conditions contained in Section 45 of the 2002 Act. Considering that persons are languishing in jail and that personal liberty is involved, all these matters are to be taken up at the earliest by the respective Courts for fresh decision. The writ petitions and the appeals are disposed of accordingly.*
- *The conditions are that the Public Prosecutor must be given an opportunity to oppose any application for release on bail and the Court must be satisfied, where the Public Prosecutor opposes the application, that there are reasonable grounds for believing that the accused is not guilty of such offence, and that he is not likely to commit any offence while on bail.*

[2017] 87 taxmann.com 257 (SC)

Nikesh Tarachand Shah

Deviation from declared objects of Section 115BBE

- *As against the above concept of 'money-laundering" under PMLA and as explained by ICAI, section 115BBE targets certain unexplained amounts which are deemed as income under either of the group of six sections. While applying these sections, an AO does not consider whether an assessee has resorted to 'money-laundering' in the sense in which this term is understood. Thus, section 115BBE deviates from the objects stated in the Explanatory Memorandum accompanying the relevant Finance Bill.*

Whether AO alone can include income u/s. 115BBE?

- *Based upon the reasoning that the provisions of sections 68 to 69D nowhere contemplate voluntary disclosures made in ITR by the assessee and that these sections contemplate additions for unaccounted/unexplained income detected by the AO during search or survey or scrutiny, it is being propagated that section 115BBE can be invoked only by AO and cannot be invoked by an assessee to show huge cash deposits in his bank account as income in ITR taxable at special tax rate of 30% under Section 115BBE. Let us examine this reasoning.*

Section 115BBE vis-a-vis voluntary disclosure of income

- *According to a view, the group of six sections contemplate additions for unaccounted/unexplained income detected by AO during search or survey or scrutiny and so, it is contended that section 115BBE read with these sections nowhere envisage a voluntary disclosure scheme.*

- *In the absence of the desired guidelines, an assessee offers his income for taxation under the provisions of section 115BBE of the Act where he feels that he would not be able to substantiate his returned income and prove the nature and source of his income to the satisfaction of the AO. He does so to buy peace and avoid adverse consequences. By paying tax at the rate prescribed under section 115BBE, an assessee does not avail any immunity under any other provisions of the Act or any other laws. He simply, suo moto, pays tax at the rates specified under section 115BBE of the Act*
- *On the other hand, voluntary disclosure schemes are, generally, framed so as to grant immunity to a declarant from penal consequences under specified laws. Even in respect of the "Income Declaration Scheme, 2016 (IDS)", the Government stated that it is not an amnesty scheme although immunities were granted from the provisions of Benami Transactions (Prohibition) Act, 1988, Wealth Tax Act, 1957, penalties and prosecutions. So, a contrary view is plausible that the resorting to the provisions of section 115BBE by an assessee need not be equated with a voluntary disclosure.*
- *Once it is concluded that both the assessee and the AO can include income of the nature specified in the group of six sections in the total income, it becomes irrelevant whether an assessee's action amounts to voluntary disclosure or not.*

Amendment of Section 115BBE

- *The provisions of sub-section (1) of section 115BBE of the Act are substituted by Taxation Laws (Second Amendment) Bill, 2016 as follows:*
- *"(1) Where the total income of an assessee,—*
- *(a) includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D and reflected in the return of income furnished under section 139; or(b) determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a), the income-tax payable shall be the aggregate of—(i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of sixty per cent.; and(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).".[Emphasis supplied]*

- *The Government was aware of the situation that that some of the existing provisions of the Income-tax Act, 1961 could possibly be used for concealing black money. In the Statement of Objects and Reasons accompanying the Taxation Laws (Second Amendment) Bill, 2016, the Government stated as follows:*
- *"Evasion of taxes deprives the nation of critical resources which could enable the Government to undertake anti-poverty and development programmes. It also puts a disproportionate burden on the honest taxpayers who have to bear the brunt of higher taxes to make up for the revenue leakage. As a step forward to curb black money, bank notes of existing series of denomination of the value of five hundred rupees and one thousand rupees (hereinafter referred to as specified bank notes) issued by the Reserve Bank of India have been ceased to be legal tender with effect from the 9th November, 2016.*
- *Concerns have been raised that some of the existing provisions of the Income-tax Act, 1961 could possibly be used for concealing black money. It is, therefore, important that the Government amends the Act to plug these loopholes as early as possible so as to prevent misuse of the provisions. The Taxation Laws (Second Amendment) Bill, 2016, proposes to make some changes in the Act to ensure that defaulting assessees are subjected to tax at a higher rate and stringent penalty provision."*

- *Thus, the amendment does not prevent an assessee from showing huge cash deposits in bank as income in ITR and it supports the view that there is no substance in the argument that Section 115BBE can be invoked only by AO and cannot be invoked by assessee to show huge cash deposits in bank as income in ITR at special tax rate under Section 115BBE. The difference between the earlier provision and the proposed provision lies in the rate of tax. If an assessee can be said to have made a voluntary disclosure of income under the earlier provisions, he is doing the same under the proposed provisions, also.*
- *It is perplexing to note as to how can a person be said to have made a 'disclosure' and at the same time 'concealed' something. In CIT v. Pilani Investments and Industries Corpn. Ltd. [2016] 383 ITR 635/238 Taxman 384/67 taxmann.com 60 the Calcutta High Court held that Disclosure and concealment cannot co-exist. [see paragraph 13 of the Order].*

Taxation Laws (Second Amendment) Bill, 2106
Finance Act , 2012 (Notes on clauses (2012) 342 ITR176 (St.)

- *S. 115BBE : Tax on income referred to in section 68 (Cash credits) or Section 69 (Unexplained investments) or section 69A (Un explained money etc.) or section 69B (Amounts of investments , etc., not disclosed in books of account) or Section 69C (Unexplained expenditure, etc.) or Section 69D (Amount borrowed or repaid in hundi)*

- ***115BBE. (1) Where the total income of an assessee (a) includes any, income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, ~~the income-tax payable shall be the aggregate of—the amount of income-tax calculated on income referred to in section 68, section 69, section 69A, section 69B, section 69C or~~ section 69D (and reflected in the return of income furnished under section 139; or) ~~at the rate of thirty per cent; and~~***

- ***(b) determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a),***

the income-tax payable shall be the aggregate of—

- *(i) the amount of income-tax (calculated on the income referred to in clause (a) and clause (b), with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (a)(at the rate of sixty per cent; and)*

- *(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause ~~(a)~~ (i) (2) Notwithstanding anything contained in this Act , no deduction in respect of any expenditure or allowance or set off any loss shall be allowed to the assessee under any provision of this Act ,in computing his income referred to in clause (a) of sub section (1)*

271AAC : Penalty in respect of certain income

Provisions for Taxation of unexplained credit, investment, cash and other assets *Provisions for Taxation of unexplained credit, investment, cash and other assets*	*Tax (S. 115BBE) Flat rate of tax @ 30% + surcharge + cess* *(No expenses, deductions, set off is allowed)*	*Tax (S. 15BBE) Flat rate of tax @ 60% + surcharge @ 25% (i.e.15% of such income) + Education cess. So total is 7.25% approx. (No expenses, deductions, set off is allowed)* *Penalty (S.271AAC) If Assessing Officer determines income referred to in S.115BBE, penalty 10 % of tax payable shall be levied; entailing total payment of 83.25%*

Basic exemption limit i.e. *Rs 2,50,000*

Above 60 years i.e . *Rs. 3,00,000*

Eight years or more i.e. *Rs. 5,00,000*

CIT v. Lily Tobias (Smt.)(2004) 266 ITR 401 (Pat.)(HC)

CIT v. Chandra Balakrishnan (Smt.) (2003) 132 Taxman 235(Ker)(HC)

Kamal Wazir (Mrs.) v. Dy.CIT (2015) 230 Taxman 563 (Bom)(HC)

- ***CBDT Instruction No. 1916, dt. 11th May, 1994, 120 Taxation (St.) 98.***

- ***The High Denomination Banks Notes (Demonetisation) Act, 1978 - Constitutionally valid***
  - ***Jayantilal Ratanchand Shah v. Reserve Bank of India &Ors AIR 1997 SC 370.***

- ***Can the Legislature increase tax rate on deposits retrospectively ?***

  Or

  Can penalty provision be amended retrospectively to include cash deposits ?

  J.K Synthetcs Ltd. v Commercial Tax Officer (1994) 119 CTR 222(SC) / 1994 AIR 2393 (Five judges Bench)
  - ***As per well-established law provision regarding levy of penalty and increased rate are in the nature of substantive law and not adjective law.***

- ***West Ramnad Electric Distribution Co Ltd v State* of Madras 1962 AIR SC 1753**
  - ***Penal statutes are generally considered prospective.***

- ***Pyare Lal Sharma v. M.D. J & K Industries AIR 1989 SC 1854***

"It is the basic principle of natural justice that no one can be penalized on the ground of conduct which was not penal on the day it was committed"

- ***National Agricultural Co –operative Marketing Federation of India Ltd v UOI (2003) 260 ITR 548 (SC)***

  Govt. has the power to make the law retrospectively, subject to several restrictions.

- **Hitendra Vishnu Thakur v State of Maharashtra AIR 1994 SC 2623**

  A statute which affects substantive rights is presumed to be prospective , either expressly or by necessary intendment.

  In the year 2004, S. 111A had been amended with an amendment brought in the middle of the financial year making the same applicable to the entire financial year, but it was specifically stated therein, "the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force" making the intention of the statute clear and unambiguous unlike the Tax Amendment in 2016.

- **Star Television News Ltd v. UOI (2009) 317 ITR 66 (Bom.) (HC)**
- **UOI v Star Television News Ltd .(2015) 373 ITR 528 (SC)**
- **CIT v. Vatika Township (2014) 367 ITR 466 (SC) (FB)(Five judges)**
  - *It is arbitrary*
  - *Retrospective*
  - *No rationale*
  - *Penalty cannot be levied in respect of transactions taken place prior to the proposed Bill and which has became Act ,*
  - *No accountability on the part of Assessing Officer*
  - *Discretion will be misused*

- **Cash is deposited on different dates, can the Assessing officer make the addition on the presumption that cash declared did not consist of Rs. 1000 or Rs. 500 Notes ?**

Ans : No, such adverse inference presumption can be made .

- *Narendra G. Goradia v. CIT (1998) 234 ITR 571 (Bom) (HC)*
- *CIT v. Associated Transport Pvt . Ltd . (1995) 212 ITR 417 (Cal) (HC)*
- *CIT v. Laxmandas Bhatiya (1996) 217 ITR 878 (MP) (HC)*
- *Bat Velbai v. CIT (1963) 49 ITR 130 (SC)Lakshmi Rice Mills v. CIT (1974) 97 ITR 258 (Pat) (HC)*
- *ITO v. ITAT (1998) 229 ITR 651 (Pat) (HC)*
- *G.K . Padmaraju v. CIT (1964) 51 ITR 412 (AP) (HC)*

Analyses of the provisions

- *Voluntary disclosure undisclosed income by assesse enabled the assessee by disclosure in return filed under section 139*
- *Tax rate increased from 30 % to 60% with effect from assessment year 2017-18, cess of 25% is introduced , also with education cess Effective rate shall be 77.25%*
- *There is no expiry date unless the future section 115BBE is amended*
- *Voluntary disclosure must be accompanied by deposit of 77.25% of the undisclosed income on or before the end of relevant previous year. i.e. before 31-3-2017*
- *If tax is not deposited before 31-3-2017, in the case of current financial year, penalty of 6% (10% of 60%) tax rate stated in section 115BBE (1)(i) will apply, i.e. effective rate will be 83.25%*

- *No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under the provisions of this Act, in computing income referred in section 115BBE(1)(a)*

- *Disclosure can be made before issue of any notice is issued by the department or before any search or seizure is carried out. Disclosure can be made in return of income filed under section 139, it may be original return, belated return or revised return.*

- *If voluntary disclosure is not made and disclosed income is detected in scrutiny assessment or reassessment or through survey (i.e. Any manner other than search) then penalty will be @ 6% (10 % of 60% tax rate stated in section 115BBE (1)(i) will apply under proposed section 271AAC , taking effective tax rate of 83.25%.*

- *Filing of return in response to notice under section 142, or after survey is conducted will not be regarded as voluntary disclosure. Nor will disclosure in any return filed under section 148 be regarded as voluntary disclosure. In such a case assessee will be able to avail the benefit of section 115BBE with penalty of 6% (10% of 60 %)*

- *Scheme applies to all incomes covered under sections 68 to 69D, whether in form of cash, bank deposits jewelry, property etc*
- *Cash may or may not be in form of demonetized notes*
- *Scheme applies to crime monies also*
- *Scheme applies to all categories of assessees ie. Individual , HUF, BOI, AOP ,Trust, Companies Act etc.*
- *Scheme applies to both resident or non –resident*
- *Scheme applies to assesses covered under Presumptive Taxation Scheme (Sections 44AD, 44ADA, 44AE)*
- *Scheme applies to assessment years 2017-18 and on wards*
- *Income chargeable under Black Money Act, 2015, cannot be declared*

Search and Seizure

Section 271 AAB- Penalty where search has been initiated

- *If undisclosed income is detected in any search which takes place on or after the date of the Bill receives Presidential Assent, then penalty of 30% or 60% will be levied under the proposed new sub section (IA) of section 271AAB (ie.107. 975% or 137. 975%)*

- *If undisclosed income is detected in any search which takes place before the date of Presidential Assent then penalty of 10% or 20% or 30% to 90% will be levied (i.e. 87.25% or 87.25% or 107.25% to 167. 25%)*

Penalty for Search and Seizers cases	*Penalty (271AAB)* *i. 10% of income if admitted, returned and taxes are paid* *ii. 20% of income if not admitted, returned and taxes are paid* *iii. 60% of income in any other case*	*Penalty (271AAB)* *i. 30% of income if admitted, returned and taxes are paid* *ii. 60% of income if not admitted, returned and taxes are paid* *(Total payment shall come to 107.25% or 137.25%)*

- *In Karimtharuvi Tea Estate Ltd. v. State of Kerala [1966] 60 ITR 262 (SC), it was held:*
- *"10. Now, it is well-settled that the Income-tax Act, as it stands amended on the first day of April of any financial year must apply to the assessments of that year. Any amendments in the Act which come into, force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force."*
- *Emphasis supplied]*

- *In Scindia Steam Navigation Co. Ltd. v. Commissioner of Income-tax [1954] 26 I.T.R. 686, a Division Bench of the Bombay High Court, considered the question-as to the effect of an amendment which came into force after the commencement of the financial year. The facts in that case were these. The assessee's ship was lost as a result of enemy action. The Government paid the assessee in 1944 a certain- amount as compensation which exceeded the original cost of the ship. The Income-tax Officer included the difference between the original cost and the written down value of the ship in the total income of the assessee for the assessment year 1946-47. The Tribunal upheld that decision and referred the question, whether the sum representing the difference between the original cost and the written down value was properly included in the assessee's total income computed for the assessment year 1946-47. It was argued that the fourth proviso to section 10(2)(vii) of the Income-tax Act (inserted by the Amendment Act of 1946 with effect from May 4, 1946) under which the inclusion of the amount was justified by the department, had no application to the case.*

- *The learned judges held that:*
- *"**as it was the Finance Act of 1946 that imposed the tax for the assessment year 1946-47, the total income had to be computed in accordance with the provisions of the Income-tax Act as on April 1, 1946;** that as the amendments made by the Amendment Act of 1946 with effect from May 4, 1946, were not retrospective, they could not be taken into consideration merely because the assessee was assessed after that date ; and that the assessee was not liable to pay tax on the sum because the fourth proviso to section 10(2)(vii) of the Income-tax Act under which it was sought to be taxed was not in force in respect of the assessment year 1946-47".*
- *The Supreme court affirmed this decision in CIT v. Scindia Steam Navigation Co. Ltd. [1961] 42 I.T.R. 589(SC)*

- *It is noted that the rate of tax on income subjected to tax under section 115BBE of the Act is specified in the Act itself and not in the annual Finance Act. The Taxation Laws (Second Amendment) Bill, 2016, inter alia, proposes to amend the provisions of Section 115BBE of the Act so as to enhance the rate of tax from thirty per cent to sixty per cent and also sub-section (9) of section 2 of the Finance Act, 2016 so as to impose a surcharge at the rate of twenty-five per cent of the tax. The amendment to section 115BBE is hit by the decision in Karimtharuvi Tea Estate Ltd. v. State of Kerala 's case (supra) and the proposed amendment to the Finance Act, 2016 is hit by the decision in Commissioner of Income-tax v. Scindia Steam Navigation Co. Ltd. 's case (supra).*
- *The Hon'ble Finance Minister has repeatedly assured the taxpayers that the Government would not resort to any retrospective legislation. But this is an instance where the amendments have retrospective operation. The Courts would have a final word on its validity.*

- *The amendment enhances the liability to pay tax on persons who have already deposited the currency notes of the denomination of Rs. 500 and Rs. 1000 with banks or specified agencies with a view to offer the same for taxation under section 115BBE of the Act. The persons who had any such plans and are yet to deposit such currencies, would have a prior notice and also an alternative to opt for "Pradhan Mantri Garib Kalyan Yojana (PMGKY)". As such, the law would discriminate between the assessees who have already deposited the banned currencies before the amendment and those who would do so hereafter. The fate of the discriminatory law would be decided by Courts in course of time.*

- *About "Nature and source" - General view: The expression "nature and source" has to be understood as a requirement of identification of the source and its genuineness. The Supreme Court in Kale Khan MohammadHanif v. CIT [1963] 50 ITR 1 pointed out that the onus on the assessee has to be understood with reference to the facts of each case and proper inference has to be drawn from the facts. Where the prima facie inference on facts is that the assessee's explanation is probable, the onus will shift to the Revenue.*

- *The question, whether or not an assessee has discharged his onus of proving the "nature and source" of an item which is the subject-matter of the section, depends upon facts and circumstances of each case. An assessee is supposed to explain the "nature and source" to the satisfaction of the Assessing Officer. The opinion of the Assessing Officer would depend upon his judgment and subjectivity therein cannot be ruled out. So, the controversy on the question, whether or not an assessee has been able to prove the "nature and source" of sum credited in his books or other investments, assets, expenses, etc., is likely to increase.*

Guidelines available for cash credits u/s. 68:

- *On the question as to when an assessee is said to have discharged his onus of proving the nature and source of an item, guidelines are available from legal precedents in case of cash credits, loans and sundry creditors appearing in his books of account. In order to establish the receipt of cash credit as required under section 68, the assessee must satisfy three important conditions, namely, (i) identity of the creditor, (ii) genuineness of the transaction, and (iii) financial capability of the person giving the cash credit to the assessee, i.e., the creditworthiness of the creditor. In other words, the golden rule was that an assessee could not be asked to prove origin of origin and source of source. The above golden rule was applied by the Courts in the cases of share application money, etc., received by closely held companies also in various other cases. Now, Section 68 has been amended by the Finance Act, 2012 requiring a closely-held company to prove the source of source of share capital, share application money, share premium and similar sum, by whatever name called. Except this, in all other cases, the above golden rule still prevails.*

Guidelines not available in other cases:

- *Sections 68 and 69A apply where an assessee maintains books of accounts. Sections 69, 69B and 69C apply to those assessees who either do not maintain books of accounts or even if they maintain accounts, the items covered by these sections are not recorded in such books. Section 69D applies to all assessees, i.e. those who maintain and those who do not maintain books of accounts. As observed earlier, there are no legal precedents/guidelines as to when an assessee can be said to have discharged satisfactorily his onus of proving the source of such investments, money, bullion, jewellery, other valuable articles, etc., as are found in his possession, and/or the source of expenses incurred.*

Sales and receipts are also covered:

- *Apart from credits on account of borrowings, loans, sundry creditors, capital, deposits, etc., such assessees credit their income from sales (both cash and credit) and other operating activities also in their books of accounts. Such other credits also attract the provisions of section 68. The nature and source of these later types of credits are explained by the assessees according to the facts and circumstances of the relevant credit entry. The provisions of section 68 are attracted when any sum is found credited in the books of an assessee. The words "any sum" are wide enough to cover the transactions of "Cash Sales" appearing in the books of an assessee and, therefore, if the assessee offers no explanation about the nature and source of "cash sales" or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, cash sales may be deemed as unexplained incomes chargeable to tax under section 68 of the Act.*

Difficulty in proving cash sales

- *In practical situations, it would be very difficult for assessees to keep fool-proof and detailed record of its transactions relating to purchases and sales. Petty traders running stalls on way-sides, hawkers, etc. do not issue cash memos/bills and obtain purchase invoices. Wholesale Departmental stores like "Big Bazaar" making numerous transactions of sales in a day cannot carry out the exercise of "KYC", i.e, "know your customer" like banks. Although in cases of cash sales, an assessee is not required to prove the "source of source", yet then it would be a Herculean task for him to prove the nature and source of "cash sales". From these judgments, it is clear that a trader can explain his cash sales if he has reliable records of purchases and stocks, but in case of a professional, it is not possible to establish one to one nexus between the expenses incurred and the fees earned.*

Taxation on presumptive basis u/s. 44AD

- *Except in cases covered by sub-section (5) of the section, an assessee opting for presumptive taxation, is not required to maintain any books of accounts. But he is required to disclose the amounts under sundry debtors, sundry creditors, stock in trade and cash balance under clause (f) of the Explanation u/s. 139(9) of the Act. It need not be explained that the nature and source of these four selected items of assets and liabilities is not always the income of the assessee and these items are affected by the increase/Decrease in other items of assets and liabilities, e.g. fixed assets, investments, loans and advances taken and/or given. In case, where an assessment is completed accepting the returned income, it can be assumed that the AO is satisfied about the nature and source of the four specified items, irrespective of the fact that the same were acquired out of income or due to increase/decrease in other items. Is there any rationale in presuming that the AO has accepted the nature and source of only the impugned four items of assets and liabilities when he accepts the assessee's return and has not accepted the nature and source of other items?*

Impact of the amendment of Section 115BBE

- *When reports appeared that the assessees were depositing the banned currency in their bank accounts with a view to offer the same for taxation under the erstwhile provisions of section 115BBE of the Act, initially, they were warned of the penal consequences under section 270A of the Act (i.e. 200% of tax). But soon thereafter, it was realised that the said penal provisions may not be applicable when the returned income matches with the assessed income. Under these circumstances, the amendments seem to have been proposed by Taxation Laws (Second Amendment) Bill, 2016. The proposed amendments to section 115BBE would not be confined to the 50 days window during which a person is allowed to deposit banned currency notes in his bank account or with other specified agencies.*
- *It has been stated hereinabove that there are no guidelines for determining when an assessee can be said to have explained the nature and source of his income and/or other prescribed items. An AO can apply the provisions of the group of six sections subjectively and the temptation to do so would now be larger.* ***Undoubtedly, the provisions are patently unjust and harsh to a taxpayer. In all fairness, the amendment to section 115BBE should have been applicable for the period of 50 days to tackle the extra-ordinary circumstance.***

Continued…

- *The Hon'ble Prime Minister and the Finance Minister had made public announcements that no enquiry would be made in case of persons depositing banned currency notes up to a sum of Rs. 2.50 lacs. The amendment does not contain any provision to this effect. Petty Traders, housewives, artisans, chaiwalas, small eateries, dhabas, hawkers, tailors, coaching classes, part-time tutors, repairing workshops, beauty parlours, carpenters, plumbers, auto rickshaw/taxi drivers, illiterate persons, etc. engaged in various vocations cannot maintain books of accounts and establish nexus between their income and savings. They would be at the mercy of the AO who would be armed with draconian powers to impose confiscatory rates of taxes and penalty totalling to 83.25% of income besides interest u/s. 234B & 234C of the Act.*
- *The Government should be sensitive to the plight of these small taxpayers considering the necessity to widen its tax-base.*

Conclusion

- *When an assessee opts to offer his income for taxation under section 115BBE of the Act, he renders himself liable to pay tax at the maximum marginal rate and without having the benefit of any allowable deductions, exemptions and/or unabsorbed losses, etc. He does not get any immunity from any provision of the Income Tax Act and/or any other laws. Disregarding these aspects, a comparison was made between the effective rate of tax under the erstwhile section 115BBE and that under IDS. It seems that the amendment to section 115BBE has been made with a view to deny the benefit of comparative lower rate of tax. The insertion of the penal provisions of section 271AAC rubs salt into wounds.*

Continued…

- *These provisions are patently unjust and harsh to a taxpayer, in all fairness, the amendment made to tackle an extra-ordinary situation, should not be applicable beyond 30th December, 2016.*
- *The provisions of the amended Section 115BBE are not sensitive to the plight of the taxpayers and are "self-serving provisions" by and for the legislature. The promise of the Hon'ble Prime Minister to protect a honest taxpayer is under trial.*

Continued…

- *Many assessees are prevented from submitting their financial statements along with their Returns of Income and in the event of a scrutiny, they are required to explain the nature and source of assets acquired out of their past savings also. Submission of a financial statement should be made optional in case of those assessees also who are required to submit their Returns of Income in ITRs 1, 2, 2A, 3 and 4S so that they are spared the trouble of explaining the source of assets acquired in earlier years and are not liable to pay at the confiscatory rate of 83.25% of income with interest under sections 234A to 234C of the Act.*
- ***To conclude, it is opined that the provisions of the amendment to Section 115BBE are not sensitive to the plight of the taxpayers and are "self-serving provisions" by and for the legislature. The promise of the Hon'ble Prime Minister to protect a honest taxpayer is under trial.***

Surveys on Societies:

During the string of surveys conducted by the department the following violations/ irregularities/ deficiencies were noted in the functioning of co-operative societies :

1. *Non-filing of income tax returns. The reason given by some of them was that since they are covered u/s 80P deductions they don't need to file returns.*
2. *Non-compliance with statutory tax audit.*
3. *Non-maintenance of KYC norms - no PAN database of members*
4. *Large cash transactions without PAN.*
5. *Use of "cheque-books" wherein at par cheques or cash withdrawal slips are issued by members to third-parties which leads to non tracking of money trail- potentially leading to tax evasion and money laundering*

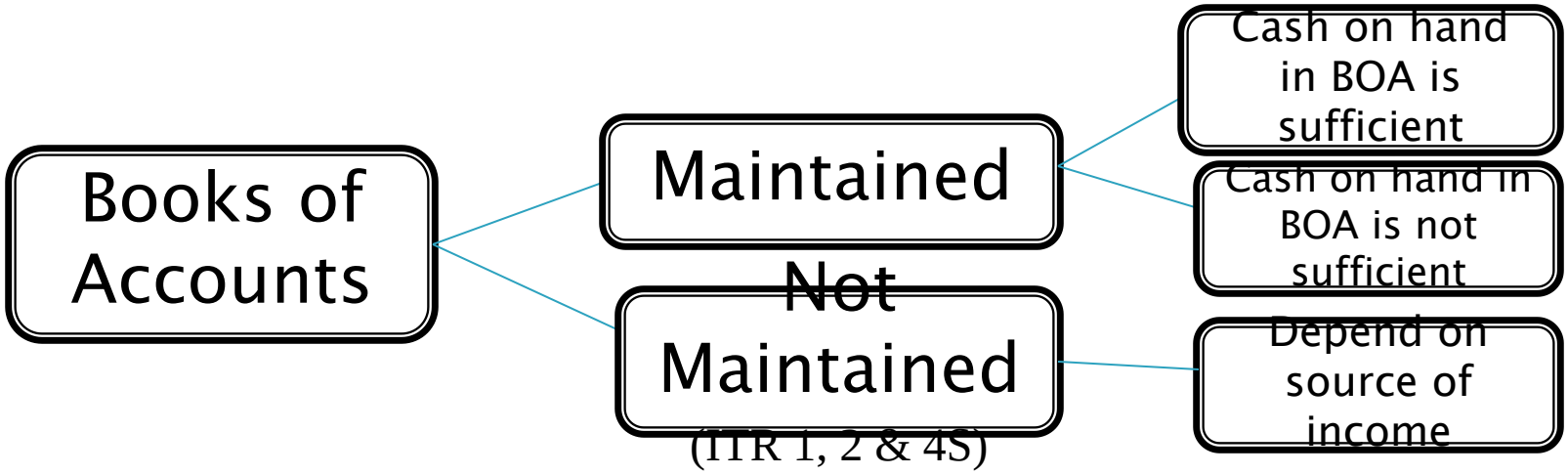
Continued…

6. Large volume cash advances and loans and subsequent repayment in cash.

7. Department is in litigation against the societies with regard to 80P deduction, while in most surveys it was seen that the societies were carrying out business akin to banks.

8. Several violations of the bye-laws of the societies themselves were seen in a few cases.

What Can You Do?



BOA maintained– Sufficient Cash in BOA

- You can surely deposit the cash in bank account after considering specified limits

BUT

- There must be a proper source of income to describe/show
- The cash deposited must not be of abnormal amount.
- One cannot say that they have sold goods after 8th November for cash

BOA Maintained— Insufficient Cash In BOA

- Creation of virtual cash from Books is not advisable as the assessee may be liable for penalty.
- Deposit reasonable amount in Bank and pay tax in future considering it as normal income (department may issue notice)
- There are significant chances that your case may be selected for scrutiny.

Other Considerations

- If you don't have any proper source of income then don't deposit unreasonable amount in bank
- When return of last year is pending for filing, it is certainly not advisable to show cash in hand of last year and deposit it in current year as it is not possible to justify why it is been kept on hand for 6 months.

BOA not maintained (incl. salaried, retired person)

- It is advisable to deposit cash in bank if you have a proper source of income to show
- Pay tax on such amount
- Inquiries or Questions may be raised against such deposits made, by department
- Give explanation to Income-tax Officer for the source of income

What if you deposit abnormal amount in your account?

- Show that amount as an income of current year
- Pay Advance Tax as per schedule (Next Installment : on or before 15th December)
- File Return of Income and Pay Tax in time
- Significant chance of issuing notice by IT Dept.

Question: From where the amount came?

- As per sec.**68** of IT Act,1961, **"Cash Credit"**

" Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers **no explanation about the nature and source** thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of **that previous year."**

- As per sec.**69A** of IT Act,1961, "**Unexplained Money, etc."**

"Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, etc. is **not recorded in the books of account**, if any, maintained by him for any source of income, and the **assessee offers no explanation about the nature and source of acquisition of the money, bullion, etc**. the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee **for such financial year**"

What is the tax liability?

- As per sec.**115BBE** of IT Act,1961, "**Taxes on income referred in sec.68 or 69A"**

"Where the total income of an assessee includes any income referred to in sec. **68** or sec. **69A**, the income- tax payable shall be the aggregate of—

(a) tax calculated on income referred to in sec. 68 or sec. 69A, at the rate of **30%**; and

(b) tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (a)**.**

- No deduction in respect of any expenditure or allowance shall be allowed to the assessee"

Pass Book—Not BOA

- In the case of **Bhaichand N. Gandhi 141 ITR 67 (Bom)** it was held that, "A CASH CREDIT FOR PREVIOUS YEAR SHOWN IN ASSESSEE'S BANK PASS BOOK ISSUED TO HIM BY BANK, BUT NOT SHOWN IN CASH BOOK MAINTAINED BY ASSESSEE FOR THAT YEAR—WHETHER SUCH CASH CREDIT FALL WITHIN THE AMBIT OF SECTION 68—HELD, NO—WHETHER PASS BOOK SUPPLIED BY BANK TO ASSESSEE IS A BOOK MAINTAINED BY ASSESSEE—HELD, NO"
- Followed in:
  - **Smt. Manasi Mahendra Pitkar 160 ITD 605 (Mumbai – Trib.)**
  - **Smt. Madhu Raitani 10 ITR(T) 91 (Gauhati) (TM)**
- **Also a contrary view :**
  - In the case of **Sudhir Kumar Sharma (HUF) [239 Taxman 264 (SC)] it was held that, "SLP dismissed against High Court's ruling that where assessee had failed to give list of persons who advanced cash to him along with their confirmation in respect of huge amount of cash deposited in its bank account, Assessing Officer was justified in adding said amount to assessee's taxable income under section 68."**

CONTRARY VIEW

- IT: Where assessee failed to produce relevant documents and confirmation in respect of loan taken from various parties, mere fact that he did not maintain proper books of account could not be accepted as a valid plea and, thus, amount in question was to be added to assessee's taxable income under section 68.

250 Taxman 362 (Bombay)

Arunkumar J. Muchhala

Case Laws

- Mehta Parikh & Co vs. CIT [30 ITR 181 (SC)]
- Section 143 of the Income-tax Act, 1961 [Corresponding to section 23 of the Indian Income-tax Act, 1922] – Assessment – Additions to income - Assessment year 1947-48 – on promulgation of High Denomination Bank Notes (Demonetisations) Ordinance, 1946, Assessee firm encashed 61 high denomination notes of Rs. 1,000 each – When asked to prove, assessee submitted books of account showing relavant entries showing payment being made to them which resulted in said cash in their hand – It also submitted affidavits of payers – Revenue authorities held that it was not possible that all payments after a particular date were being made in multiples of Rs. 1000 – They held a part of this amount to be assessee's income from undisclosed sources – Whether it was not enough without further scrutiny to dislodge position taken up by assessee which was supported by entries in cash books and affidavits put in by assessee – Held, yes – Whether, treating a part of case balance as assessee's income from undisclosed sources was based on pure surmise and based on no evidence and, hence, to be quashed – Held, yes
- Section 256 of the Income-tax Act, 1961 [Corresponding to section 66 of the Indian Income-tax Act, 1922] – High Court – Reference to – Assessment year 1947-48 – Whether facts proved or admitted may provide evidence to support further conclusions to be deduced from them which conclusions may themselves be conclusions of fact and such inferences from facts proved or admitted could be matters of law – Held, yes – Whether on reference, High Court may be entitled to intervene if it appeared that facts finding authority had acted without any evidence or upon a view of facts, which could not reasonably be entertained or facts found are such that no person acting judicially and properly instructed as to relevant law would have come to determination in question – Held, yes

Case Laws (continued…)

- Madhuri Das Narain Das vs. CIT [**67 ITR 368 (Allahabad)]**
- Section 4 of the Income-tax Act, 1961 [Corresponding to section 3 of the Indian Income-tax Act, 1922] – Income – Chargeable as – Assessment year 1947-48 – Assessee encashed 28 high denomination notes of Rs. 1,000 each after issuance of High Denomination Bank Notes (Demonetisation) Ordinance, 1946 – When asked to explain source of said notes, assessee submitted that same had come out of closing cash balance of its business – ITO disbelieved explanation and treated entire amount as assessee's income from an undisclosed source – Tribunal accepted that 22 notes could have come out of cash balance of Rs. 38,000 and odd, and remaining 6 notes could not have formed such balance – Whether finding of Tribunal, being based upon surmises and conjectures, could not be upheld – Held, yes HC held that finding of Tribunal was based upon surmises and conjectures and cannot be upheld. HC relied on coordinate bench ruling in Kanpur Steel Co. v. CIT [[1957] 32 ITR 56]. *In view of decision of the Allahabad High Court in* Kanpur Steel Co. *v.* CIT *[1957]* 32 ITR 56 *the finding of the Tribunal that where as 22 high denomination notes out of a total of 28 high denomination notes could form part of the assessee's cash balance, the remaining 6 high denomination notes could not form part of such balance, was based on surmises and conjectures and the same could not be upheld.*

Case Laws (continued…)

- Gur Prasad Hari Das vs. CIT [47 ITR 634 (ALL.)]
- Assessment – Addition to income - Assessment year 1947-48 – On demonetisation of high denomination notes assessee encashed 21 such notes, part of which were held, by Tribunal as his income from undisclosed sources on ground that same could not be satisfactorily explained by assessee – Whether, prima facie value represented by high denomination notes in possession of assessee must be presumed to be part of his cash balance and if department wanted to treat such value as his concealed income from some undisclosed sources, it was for department to establish that fact on basis of material in their possession – Held, yes – Whether in view of fact that Tribunal accepted assessee's case atleast with regard to eight notes and further that it made its own estimate of cash balance of assessee confining some proportion of high denomination notes implying thereby possibility of assessee receiving such notes during course of his business, Tribunal committed an error in not accepting assessee's explanation in toto in regard to all notes – Held, yes – Whether, in view of aforesaid, there was no material before Tribunal for holding that assessee could not have been in possession of any of remaining thirteen notes also and that those notes or any part of them represented income of assessee from some undisclosed sources – Held, yes

Case Laws (continued…)

- Naresh Kumar Tulshan vs. Fifth IncomeTax Officer [11 ITD 537 (BOM)]
- In the present case, assessee deposited high denomination notes in bank declaring their source as past profits. In subsequent statement however during survey, the source was given as withdrawal from a partnership firm , but examination in firms book made possession of such high denomination cash by firm on date of withdrawal improbable and thus Bombay HC held that the ITO was justified in treating the impugned high denomination cash as assessee's income as unexplained money u/s 69A and was made taxable.It was held that "there was a clear contradiction in the two statements of the assessee about the source of the impugned amount. Had the source of the notes been his past profits as stated on 19-1-1978, there was no necessity for him to state subsequently that the amount had been withdrawn from the firm. Clearly if it represented his past profits, there was no need for any withdrawal from the firm. Also, the certificate of the firm was in general terms and there was no other contemporaneous evidence to corroborate the assessee's case. Even the firm itself had not explained the source of high denomination notes worth more than Rs. 6 lakhs and had asked for a settlement.Considering all the evidence produced by the assessee, the conclusion would be that the notes were never part of the firm's cash and the assessee had not been able to establish this fact. The lower authorities were, accordingly, justified in making the addition…"

Case Laws (continued…)

- In the case of Sreelekha Banerjee [49 ITR 112 (SC)] it was held that, “Whether if there is entry in account books of assessee which shows receipt of sum on conversion of high denomination notes tendered for conversion by assessee himself, it is necessary for assessee, if asked, what source of that money is and to prove that it does not bear nature of income - Held, yes - Whether where assessee contended that high denomination notes represented not cash balance but some other money and he failed to explain source of said money, department was justified in treating value of said high denomination notes as income of assessee from undisclosed sources - Held, yes.”

Case Laws (continued…)

- In the case of Associated Transport (P.) Ltd. [212 ITR 417 (Calcutta)] it was held that, “Assessing Officer treated high denomination notes worth Rs. 81,000 as unexplained money, disbelieving assessee's explanation as to how he came into possession of same and added same in income of assessee and also imposed penalty - Tribunal found that assessee had sufficient cash in hand and in books of account of assessee cash balance was usually more than Rs. 81,000 - It, deleted addition and cancelled penalty - Whether finding of Tribunal being on basis of appreciation of facts against which no question of perversity had been raised, Tribunal was right in deleting addition and consequent penalty - Held, yes.”

Case Laws (continued…)

- In case of receipt of money by way of encashment of HDNs, the burden to prove the source of money and its nature rests solely on assessee - *Anil Kumar Singh* v. *CIT* 84 ITR 307 (Cal.)
- Value of HDNs was not assessable as income from undisclosed sources if cash balance shown in accounts of assessee was sufficient to cover HDNs and value of HDNs formed part of cash balance of the assessee. Only source of receipt of money has to be disclosed and not the source of receipt of HDNs which were legal tenders at the relevant time - *Lakshmi Rice Mills* v. *CIT* [1974] 97 ITR 258 (Pat.)
- HDNs could not be treated as income from undisclosed sources just because it was not mentioned in books that cash balance consisted of HDNs - *ChunilalTikamchand Coal Co. Ltd.* v.*CIT* [1955] 27 ITR 602 (Pat.)
- Tribunal could not make addition of undisclosed income where HDNs encashed by assessee were savings from his personal allowance – *Sri SriNilkantha Narayan Singh* v. *CIT* [1951] 20 ITR 8 (Pat.)

- **F. No. 225/391/2017/ITA.II**
  Government of India
  Ministry of Finance Department of Revenue (CBDT)
  North Block, New Delhi, the 24th of November, 2017
- To
  All Principal Chief-Commissioners of Income-tax/Directors-General of Income-tax
- Sir/Madam,
- Subject: **Some of the important issues to be considered while framing scrutiny assessments pertaining to filing of revised/belated returns by assessees, post-demonetisation-reg.-**
- Post-demonetisation, it was found that some of the assessees tried to build an explanation for cash deposits in their bank account(s) by manipulating their books-of-accounts and filing revised/belated income-tax returns. In this regard, Finance Ministry issued a Press Release dated 14th December 2016 in which it had cautioned that post-demonetisation exercise, provisions of Income-tax Act, 1961 ('Act') which permitted filing of a revised or a belated return in certain situations should not be misused. The Release further stated that any instance of a revised/belated return of income coming to the notice of Income-tax Department which reflected any manipulation of book-of-accounts, cash-in-hand, profits etc. to justify the cash deposit being made in bank-account(s) might lead to taking necessary action under the relevant provisions of the Act by Income-tax Department. Based upon risk-assessment, several of such cases were selected for scrutiny in Computer Aided Scrutiny Selection (CASS) during this financial year.

- 2. Under the Act, revision of income-tax return is allowed only if any omission or wrong statement is discovered therein by the concerned assesse. Such omission or wrong statement should have occurred due to a bonafide inadvertent error or a mistake on the part of the assesse. Therefore, in situations where enquiries/verification in course of assessment proceedings suggest manipulations made fictitiously merely to build an explanation for cash deposits in bank account(s), the revised return itself becomes questionable and therefore, the transactions disclosed in it which are over and above the original return are liable to be taxed under anti-abuse provisions of the Act. Similarly, in case of a belated return, it would be crucial to examine the trend and business practices of a particular assessee while ascertaining the legitimacy of the transactions disclosed in a belated return, filed post-demonetisation. In such cases already under scrutiny, some instances which might indicate that assessee had filed revised or belated return merely as a cover up to explain the cash deposits in bank accounts are:

i. Unsubstantiated reduction in closing stock in the revised return vis-a-vis the figures in original return;

ii. Reporting of higher sales in the revised return;

iii. Cash-in-hand as on 31.03.2016 or 31.03.2015 was enhanced in the revised return;

iv. Additional cash inflow claimed to be out of earlier year savings, receipt of loans/advances /gifts/repayments/sale of capital assets;

v. In some cases, cash outflow might have been reduced by paying some of the liabilities in cash;

vi. Significantly lower closing stock as on 31.03.2015 or 31.03.2016 as compared to the earlier years in a belated return;

- In such scenarios, following issues may be kept in consideration during verification and framing of assessments-

I. The claim of enhanced sales may be compared with the Central Excise/VAT returns;

II. Whether the parties to whom additional sales were disclosed have identity, creditworthiness and transaction was genuine or not;

III. Where the accounts are subjected to tax-audit, whether omission or wrong statement in the original return was pointed out by the audit or not;

IV. The source of cash in hands of the person who had made payments to the assesse has to be verified carefully;

V. The past profile of the concerned assessee should be thoroughly analysed;

VI. Where as a result of enquiries/investigations it emerges that figures in the revised/belated return are fudged, the figure of manipulated receipts/sales/stock etc. is liable to be taxed as a cash credit under section 68 and not merely on net profit basis;

VII. Any undisclosed expenditure detected after reduction of cash in hand by the assesse may be verified carefully;

VII. . Significantly higher cash-in-hand as on 31.03.2016 or 31.03.2015 compared to the preceding year in a belated return.

VIII. Unaccounted income so assessed in scrutiny assessment is liable to be taxed at a higher rate without any setoff of losses, expenses etc. under section 115BBE of the Act;

IX. In the scenario pertaining to Wealth tax returns of earlier years, it should be examined whether there is an attempt to build cash–in-hand or any other asset so as to justify deposit of cash, post-demonetisation.

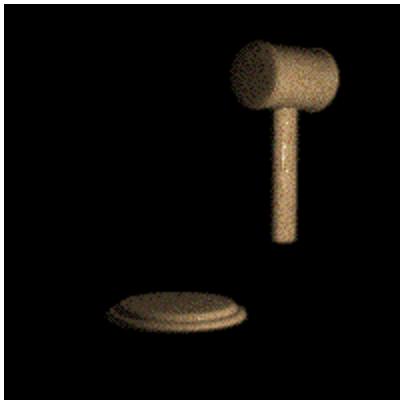
- The above guidance note may be brought to the notice of field authorities in your charge. The above guidelines are only suggestive. Therefore, depending upon specific facts and circumstances of a particular case, Assessing Officer should also look into other relevant issues as well.
- Yours faithfully,
- (Rohit Garg)
  Director-ITA.II, CBDT

- **IT-I : Where AO made addition to assessee's income in respect of excess stock by invoking of provisions of sec. 115BBE, in view of fact that amended provisions of sec. 115BBE were applicable with effect from 1-4-2017 and not prior to that, impugned addition was to be set aside**
- **IT-II: Where assessee had occupied part of house for his residential purposes during year under consideration, ALV for last year for entire house could not be adopted as ALV of part portion of house let out by assessee Disallowance under section 14A cannot exceed amount of exempt income and further if there is no exempt income, no disallowance can be made**
- **IT-III: Disallowance under section 14A cannot exceed amount of exempt income and further if there is no exempt income, no disallowance can be made**
-
- **[2018] 96 taxmann.com 373 (Jaipur - Trib.)**
- **IN THE ITAT JAIPUR BENCH**
- **Assistant Commissioner of Income-tax, Central Circle-1, Jaipur**
- ***v.***
- **Satish Kumar Agarwal**

Issues for consideration

Queries please??????????????

- ??????????????



Thank you