

No Sec. 68 additions solely based on MOU found during search if assessee wasn't even remotely connected to MOU: HC

Facts of the case : PCIT v. Trilok Chand Choudhary - [2023] (Delhi)

Assessee, an individual, filed its return of income for the relevant assessment year. A search operation was carried out on the premises of the assessee. During the search proceedings, a Memorandum of Understanding (MOU) for investment in property between two parties was found in which one party made a payment of Rs. 20 crores in cash.

AO summoned the parties to MOU wherein one party admitted in his statement that he had signed the seized MOU at the direction of the assessee in exchange for commission income. However later, he changed his statement and stated that a cash transaction of Rs. 20 crores occurred at the assessee's office in the presence of the assessee, and the cash was given to the parties in this office.

Relying upon the second statement, the Assessing Officer (AO) added Rs. 20 crores to the income of the assessee and computed the tax liability accordingly.

On appeal, CIT (A) confirmed the additions made by AO but subsequently deleted them by the Delhi Tribunal. Aggrieved by the order, an appeal to Delhi High Court was filed.

Decision of the case:

- The Delhi High Court held that the MOU was recovered from the premises of the assessee but as per the terms of the MOU, the assessee was not a party or a witness to the transaction. Also, no cash was found or seized during the search operation. Tribunal also noted that the assessee was not even remotely connected to MoU.
- Further, the second statement changed by the party to the transaction was not corroborated by any evidence. Thus, the subsequent statement cannot be considered reliable. Thus, AO committed an error in framing the opinion.
- Accordingly, there was no infirmity in the order of the Tribunal deleting addition and the same was to be upheld.