

Sec. 69C additions on bogus purchase justified as assessee failed to produce any documentary evidence

Facts of the case - Principal Commissioner of Income-tax v. Mrs. Premlata Tekriwal [2022] [HIGH COURT OF CALCUTTA]

Assessment in case of assessee was completed - Subsequently, an information was received from Investigating officer that it was found from details that name of assessee was found in list of beneficiaries of accommodation entries by way of bogus purchases bills - On basis of same, a reopening notice was issued upon assessee and, further, Assessing officer disallowed 3 per cent of such bogus expenditure/purchases - Subsequently, PCIT invoked revision on ground that once it was established that expenditure was unexplained/bogus, entire amount of bogus expenditure was to be added to income of assessee - It was noted that when Assessing Officer gave an opportunity to assessee to explain transaction, assessee did not produce any document but rather stated that 2 per cent of purported bogus purchase might be added to its income.

The assessee carried the matter on appeal to the Tribunal. The Tribunal had allowed the assessee's appeal by relying upon the decision of the Coordinate Bench in Om Foregoing & Engineering (P.) Ltd. v. Pr. CIT

Decision of the case:

- It was held that from materials available on record it is proved beyond doubt that the alleged purchase claimed by the assessee against the parties were bogus. The PCIT referred to Section 69C of the Act and pointed out that once it is established that the expenditure is unexplained/bogus, the entire amount of bogus expenditure is to be added to the total income of the assessee. Reliance was placed on the decision of the Hon'ble Supreme Court in N.K. Proteins v. Dy. CIT
- When the assessing officer gave an opportunity to the assessee to explain the transaction, the assessee did not produce any document, but stated that 2% of the purported bogus purchase may be added to the total income. Thus it would mean that the assessee had accepted the allegations against them and precisely for such reason they offered that 2% of the bogus purchase may be added to the total income. If such was the factual position in the case on hand, then it is incumbent upon the Assessing Officer to inquire into the matter and take the proceedings to the logical end. Having not done so, the PCIT was fully justified in exercising jurisdiction under section 263 of the Act.
- Thus, we are of the view that Tribunal erroneously interfered with the order passed by the PCIT.
- Therefore, PCIT was fully justified in exercising revision jurisdiction under section 263.
- Consequently, the order passed by the Principal Commissioner of Income-tax - 10, Kolkata dated 5th March, 2018 is restored