

No provision allows AO to retain documents of title as security for any tax liability that may arise in future: HC

Facts of the case: Muthukoya T. v. Commissioner of Income-tax - [2022] 142 taxmann.com 327 (Kerala)

The assessee was an individual and partner in a partnership firm. A survey was conducted on the premise of the assessee. As a part of operations, the Assessing Officer (AO) impounded books of accounts and other original documents produced by the assessee. The assessee filed his returns and paid all the outstanding taxes but the original documents were not released by AO.

AO contended that the firm in which the assessee was a partner had substantial tax arrears. Thus, the document of title shall be released if the assessee clears the arrears or provides a sufficient bank guarantee for the tax amount.

The assessee filed a writ petition before the Kerala High Court.

Decision of the case:

- The High Court stated there is no provision under the Income-tax Act to retain the documents of title as security for any tax liability that may arise in the future. Thus, AO cannot retain documents of title impounded/seized in absence of any such statutory provision.
- Further, as per the provisions of section 131(3), the documents can be impounded only for a period of 15 days. Any further retention, after such 15 days, is to be allowed only after taking the prior approval officer mentioned under section 131(3). In the instant case, AO hadn't taken any such approval from any officers and thus, he can't retain the documents of title under any circumstances.
- Accordingly, AO had kept the original documents of title illegally and material irregularity exists in his procedure of retention such documents. Thus AO was directed to return the original document of title to the assessee.