

SEARCH AND SEIZURE UPDATE

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In the case of Asstt. CIT vs. Avinash Chander 116 TTJ (Asr) 102 (2008)

1. Savings out of Pin Money:- Assessee's explanation that deposits in his savings bank account were made by his wife out of her pin money without the knowledge of assessee, rightly disbelieved and addition rightly made by AO in block assessment as assessee's wife was maintaining more than one bank account in her own name and there was no direct evidence of such deposit by the wife.
2. Deposits in savings bank accounts of the daughters of assessee, inter alia having been duly disclosed by them in the returns under VDIS and accepted by the Department could not be treated as undisclosed income of assessee.
3. Documents and evidence on record showing that tanker business in fact belonged to one 'S' and not to assessee CIT(A) was justified in deleting addition made in block assessment of assessee.
4. Foreign remittances in the bank accounts of assessee's daughters, having been, inter alia, duly disclosed by the daughters in their returns filed before the date of search could not be added as undisclosed income of assessee.
5. Estimation of marriage expenditure:- In the facts of the case, CIT (A) correctly estimated the expenditure at Rs. 4.5 lacs on the marriage of one daughter in 1995 and Rs. 5 lacs for the marriages of two other daughters of the assessee in 1996 as against Rs. 6 lacs on marriage of each daughter estimated by AO, hence justified in deleting the addition in block assessment of assessee.
6. Protective Assessment- Undisclosed income having been substantively assessed in the block assessment of assessee but protectively in the block assessment of his wife, grievance of assessee that there was double addition was misconceived as confirmation of addition in one

hand will automatically result in deletion in other.

7. Validity-Material upon which addition was made in block assessment having never been confronted to assessee, issue remanded to CIT(A) for fresh decision after affording adequate opportunity to assessee in this regard.

In the case of -Pransukhlal & Sons Jewellers vs. Asstt. CIT 116 TTJ (Mumbai 'C') 197 (2008)

1. **Disclosure by the Partner-** Addition of Rs. 25 lakhs made solely on the basis of disclosure made by partner during search could not be sustained.
2. **Shortage of stock:-** AO having computed shortage of stock at Rs. 4,28,121 and GP thereon of Rs. 1,49,842, addition in block assessment towards undisclosed income can be, made only of Rs. 1,49,842 and not of Rs. 4,28, 121.
3. **Excess Stock:-** In case of shortage of stock only GP addition can be made and in case of excess stock, the entire cost of stock is liable to be added as undisclosed income in block assessment.
4. **Proceedings under s. 158BD-** Since the assessment order in the case of assessee firm under s. 158BD mentioned that a diary was found from the residence of one of the partners of this firm which disclosed undisclosed income of this firm, proceedings under s. 158BD were validly initiated against the assessee.
5. **Proceedings under s. 158BD-** There being no material found in the course of search in the case of PJ on the basis of which it could be inferred by the AO of PJ that any undisclosed income belonged to PS, the inventory prepared on the basis of illegal search in the case of PS could not be taken into consideration for invoking the jurisdiction under s. 158BD against PS, consequently, the block assessment in case of PS under s. 158BD was void ab initio.

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