

1. **Estimation of Cost of construction** - Without pointing out any specific defects in the books of accounts or rejecting them, addition made by AO on account of construction on the basis of report of DVO obtained under an invalid reference was rightly deleted by CIT(A) observing that higher plinth area was taken by DVO, that PWD rates should have been applied against CPWD rates and that expenditure should have been spread over the period of cost of construction consisting of more than one year.

-ITO vs. Agencies Rajasthan (P) Ltd. (JP 'A') 217.

2. **Reference to DVO for estimation of cost of construction** - Assessment having already been completed by the AO, commission issued by AO to DVO thereafter under s. 131(1)(d) for valuation of property was invalid - Assessment had not become final within the meaning of proviso to s. 142A as order of CIT(A) had been carried in appeal but this issue remained only academic

-ITO vs. Agencies Rajasthan (P) Ltd. (JP 'A') 10 DTR 217 (2008).

3. **Validity of protective assessment under s. 143**- Income which was assessed as undisclosed income for the block period cannot be assessed even on protective basis in regular assessments under s. 143 for those years -From the plain reading of s. 158BA and Explan. (C) thereto, it is clear that the assessment of undisclosed income relating to the block period shall have to be made only in accordance with the provisions of Chapter XIV-B which provide special procedure for such assessment and that the total undisclosed income relating to the block period which is assessed under the said chapter shall not be included in the regular assessment of any previous year included in the block period.

COMMISSIONER OF INCOME TAX vs. WIPRO FINANCE LTD. (2008) 218 CTR (Kar) 105

4. **Loose sheets:-Assessee doing business of development and sale of real properties**, having disclosed the investment in construction and receipt from sales in the returns of income for relevant assessment years before the date of

search, no addition in the block assessment could be made only on the basis of loose papers found during search not containing any date-wise break-up of investment and receipts without any corroborative evidence.

-Sonal Constructions vs. Dy. CIT (Del 'E') 10 DTR 507 (2008).

5. **Belated Return:-** Income shown in the belated return after the date of search is not undisclosed income.

-CIT vs. A .M .Mohan Babu (Mad) 235 (2008).

6. **Undisclosed income** - Once the assessee has paid advance tax, income shown in the belated return filed after the date of search is not undisclosed income.

-CIT vs. Smt. Shoba Ramalingam (Mad) 10 DTR 233 (2008).

7. **Non-consideration of applicability of s. 40A(3)** - AO having failed to consider cash purchases and applicability of s. 40A(3) corresponding to undisclosed sales unearthed during search and considered in block assessment, CIT was justified in exercising revisional jurisdiction and directing the AO to make good the lapse.

-Ranka Jewellers vs. Addl. CIT (Pune'A') 10 DTR 537 (2008).

8. **Amount of consideration-** In the absence of any material on record to suggest that the assessee has received higher amounts than the sale price shown in the books of accounts, addition cannot be made in the proceedings under s. 158BC r/w s. 158BD.

-Rushil Industries Ltd vs. Dy. CIT (Ahd 'D') 9 DTR 601 (2008).

9. **Interest under ss. 234B and 234C-Chargeability-Adjustment of seized cash** - Assessee having requested the Department to adjust the cash which was seized during the search against his tax liability, the Department has to adjust the seized amount towards the advance tax, etc. from the date when it was seized.

-Sudhakar M. Shetty vs. Asstt. CIT (Mumbai 'J') 10 DTR 173 (2008).