

Assessee was not to be given opportunity of being heard by CIT while granting approval for block assessment

Summary – The High Court of Allahabad in a recent case of Dr. K.P. Singh, (the Assessee) held that where Assessing Officer as a result of search conducted under section 132 upon assessee passed a block assessment order on him, no opportunity of hearing was required to be given to assessee by Commissioner while granting approval under section 158BG.

Facts

- The authorised officer conducted a search under section 132 upon the assessee and seized certain incriminating documents from his possession.
- Thereafter the Assessing Officer passed a block assessment order on the assessee and made certain addition to his income.
- On appeal, the Commissioner (Appeals) upheld the addition made by the Assessing Officer.
- On second appeal, the Tribunal observed that in the instant case no opportunity of hearing was given to the assessee by the Commissioner while granting approval under section 158BG. So no enhancement could be made out.
- On appeal to High Court:

Held

- It appears that while granting the approval, the Commissioner has made some observations. Whether these observations amount to the enhancement of the addition or not, this aspect was not examined by the Tribunal. The Tribunal has not gone into the merit of the observations/directions, if any, made by the Commissioner. The Tribunal has merely decided the issue on a technical ground.
- It may be mentioned that no opportunity is required while giving approval by the Commissioner under section 158BG.
- For the examination of the merit pertaining to each addition *vis-à-vis* the report of the Commissioner dated 29-9-1997, matter required to be sent back to the Tribunal with a direction to examine the same on merit and pass a fresh order as per law after providing reasonable opportunity to the assessee.