

Opportunity to be given to assessee to challenge value recommended by DVO for making additions to his income

Summary – The High Court of Allahabad in a recent case of Manvendra Singh, (the Assessee) held that Assessing Officer cannot adopt fair market value of property as per report of DVO, without giving sufficient opportunity to assessee to challenge DVO's report.

Facts

- The assessee, co-owners of a certain property, sold a property. When computing capital gains, all assessee's sought to get the benefit of cost of improvement of Rs. 18 lakhs approximately.
- The Assessing Officer did not accept the computation done by the assessee and accordingly disallowed the claim of cost of improvement of Rs. 18 lakhs on the ground that no evidence was furnished to this effect. He referred the matter to DVO under section 50C(1) to assess the fair market value of the property. On receiving report from DVO, he made addition of Rs. 18 lakhs.
- This was confirmed by the First Appellate Authority.
- On further appeal, the Tribunal also upheld the action of the Assessing Authority adopting 'fair market value' as per DVO report.
- On appeal to the High Court:

Held

- It appeared that no proper opportunity was provided to the assessee to raise objection pertaining to report submitted by DVO. It was thus violation of the principles of natural justice. The Assessing Officer without providing proper opportunity of hearing, passed the assessment order in a hurried manner on the same day. This aspect had not been examined either by the first Appellate Authority or by the Tribunal.
- Thus, the impugned order passed by the Tribunal was set aside and the matter was restored to the Tribunal to decide the issue *de novo* by considering the objection pertaining to the DVO's report and by providing reasonable opportunity of hearing to the assessee as per law.
- All appeals filed by the assessee were to be allowed for statistical purposes.