

Reference to DVO can be made only after rejection of books and recording of reasons

Summary – The High Court of Allahabad in a recent case of Tulsiani Constructions & Developers Ltd., (the Assessee) held that Assessing Officer cannot make reference to DVO without first rejecting books of account of assessee

Facts

- The assessee was a developer engaged in the business of construction and sale of buildings. It incurred expenses towards cost of construction of various projects undertaken by it.
- The Assessing Officer referred matter to District Valuation Officer (DVO) to give an estimate of cost of construction. As cost of construction estimated by the DVO was higher than that shown by the assessee, the Assessing Officer made addition under section 69B treating difference as unexplained investment.
- On appeal, the Commissioner (Appeals) deleted addition.
- The Tribunal dismissed the revenue's appeal, holding that the Assessing Officer had not pointed out any specific defect/discrepancy in the books of account regularly maintained by the assessee relating to the cost of construction of the building in question.
- On appeal to the High Court:

Held

- The Assessing Officer, without rejecting the account, straight away referred the matter to the DVO and adopted an easier course for arriving at the fair market value of the properties constructed by the assessee. Before making reference to the DVO, the Assessing Officer neither expressed any doubt over the correctness of the account books, nor rejected the account books.
- For the aforesaid reasons no question of law arises for consideration by the High Court.