

Delhi I-T Authority has jurisdiction over assessee residing and maintaining bank account in Delhi

Summary – The High Court of Punjab & Haryana in a recent case of Rajni Gugnani, (the Assessee) held that where assessee was not only maintaining residence in Delhi but also had bank account in Delhi where dubious transaction had taken place, Income-tax authority of Delhi had jurisdiction over assessee.

Facts

- The assessee was a resident of New Delhi. During investigation of racket involving accommodation entries, name of the assessee appeared as one who had received gift/accommodation entry of Rs. 5 lakh each from MKB and VKJ.
- A notice under section 148 was issued requiring assessee to file return. A notice under section 142(1) was also issued.
- The assessee submitted that she had already submitted her return of income to Income Tax Officer, Rohtak where she was regularly being assessed and had requested for transfer of her case to Rohtak. Her request to transfer case to Rohtak was allowed.
- During proceeding, the Assessing Officer found that donors (MKB and VKJ) had provided accommodation entries of cash by opening their bank account for this purpose only. Further, there was neither any blood relationship of donor with the assessee nor there was any occasion for making the alleged gift. Therefore, he treated Rs. 10 lakhs as income of assessee from undisclosed sources.
- The order of the Assessing Officer was reversed by Commissioner (Appeals), Rohtak.
- On appeal, the Tribunal held in favour of revenue.
- In appeal by the submitting that Income-tax authorities at Delhi had no jurisdiction to reopen the case of the assessee as she was being assessed to Income-tax at Rohtak. It was, therefore, claimed that when the case of reassessment was transferred to Rohtak from Delhi, fresh notice under sections 148 and 142(1) was necessary.

Held

- While filing her return at Rohtak for the relevant assessment year, she had neither disclosed details of such alleged gifts nor had furnished details of her bank account at Delhi. Rather, it transpires that there was no information of the fact of her bank account being with Bank of Rajasthan, New Delhi and that her assessing authority was at Rohtak. In short, on finding two entries of Rs.5 lacs each dramatically appearing in her bank account, investigating agency had found that these were accommodation entries. Since, there was no knowledge, information or occasion to note the fact of her being assessed at Rohtak, income tax authorities at Delhi were well within their rights to issue

notice under Section 148 after compliance of provisions of Section 147 regarding disclosing of reasons and in issuance of notice under Section 142(1).

- The moment it was disclosed by the assessee that she was being assessed to income tax at Rohtak and had furnished particulars thereof, on her request, the matter was transferred to Rohtak.
- The question is whether notice under section 148 as also section 142(1) was to be re-issued by the Assessing Officer at Rohtak? Had it been a case of absence of jurisdiction with income tax authorities at Delhi, issuance of notice by the Assessing Officer at Rohtak was *sine qua non* for legality of the proceedings but when authorities at Delhi were competent to initiate proceedings, the assessee being a resident of Delhi where she was having a bank account wherein dubious entries were found to exist, there was neither want nor error of jurisdiction. Had the assessee not being assessed to income tax at Rohtak, Delhi authorities were to proceed further in the matter. It was only a matter of convenience for the assessee as also to maintain consistency and uniformity that on her request, the matter was transferred to Rohtak where she was already being assessed.
- Facts of the case in hand reveal that the assessee was residing at Delhi where she was operating her bank account in which certain dubious transactions were made, which on investigations were found to be accommodation entries taken by the assessee from entry providers who were working as a racket. Residence of the assessee was at Delhi. She was operating her bank account at Delhi. Her address at Delhi had also been prominently recorded in the record of the bank. Dubious entries of heavy amounts had been traced to her bank account. After recording reasons in terms of Section 147 of the Act that certain income of the assessee had escaped assessment and after complying with the legal requirements, notice under Section 148 of the Act was issued by the income tax authorities to the assessee at her Delhi address. It was followed by yet another notice in terms of Section 142(1) of the Act. It is a conceded fact that immediately on request of the assessee for transfer of her case to Income Tax Officer, Rohtak (where she was being assessed), such request was accepted and her case was transferred to Rohtak, where subsequent proceedings were conducted.
- In the present case, Income-tax authorities at Delhi were not strangers to the assessee as the assessee was not only maintaining a residence but was also having her bank account where dubious transactions had taken place and later those transactions had come under the scanner by the income-tax authorities. In the absence of any information that the assessee was being assessed to income-tax at Rohtak, the authorities at Delhi were legally competent to issue notices under section 148 (in compliance with section 147) as also under section 142(1).