

Failure to maintain books of account would bar assessee to claim min. exemption benefit from undisclosed income

Summary – The High Court of Punjab & Haryana in a recent case of Satpal Singh, (the Assessee) held that in block assessment, assessee shall not be entitled to exclude basic exemption granted under section 139(1) without satisfaction of Assessing Officer regarding genuineness of books of account or other documents in respect of his income.

Facts

- The premises of the assessee was searched.
- The Assessing Officer found that the assessee carried out manufacturing activity and had not maintained books of account. Therefore, he assessed the income on total undisclosed income without giving any benefit of the exemption allowed to the assessee in term of section 139.
- On appeal, the Tribunal upheld the same.
- On appeal:

Held

- The 'undisclosed income', as defined in section 158B(b), is the inclusive definition and includes the income which has not been or would not have been disclosed for the purposes of this Act. Therefore, the disclosure of income prior to the search is a relevant factor to arrive at the quantum of undisclosed income. Section 158BA(1), gives overriding jurisdiction to the Assessing Officer to assess the undisclosed income in accordance with Chapter XIV-B.
- The assessment under Chapter XIV-B is in addition to the regular assessment in respect of each previous year and the income assessed is not to be included in the regular assessment of any previous year included in the block period. Sub-section (3) of section 158BA enjoins an obligation to the assessee to prove to the satisfaction of the Assessing Officer that any part of income referred to in sub-section (1) relates to an assessment year for which the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 for any previous year has not expired, and such income or the transactions relating to such income are recorded on or before the date of the search or requisition in the books of account or other documents maintained in the normal course relating to such previous years, such income shall not be included in the block period.
- In other words, on satisfaction of the Assessing Officer from the books of account or other document maintained in the normal course, the income recorded therein can be excluded from the income in the block period. The assessee is, thus, not entitled to the basic exemption irrespective of the entries in the books of account or the documents, as a matter of course, but the assessee has to

satisfy the Assessing Officer of generation of income from the books of account or other documents so as to seek exclusion from the 'undisclosed income'. It is section 158BB, which contemplates that undisclosed income shall be the aggregate of the total income on the basis of evidence found as a result of search or requisition of books of account or other documents.

- It is only on the satisfaction of the Assessing Officer on the basis of books of account and documents, certain part of undisclosed income can be excluded from the block assessment.
- Chapter XIV-B is a special provision to frame assessment consequent to search and seizure operations carried out by the revenue. Section 158BA confers recording of satisfaction of the Assessing Officer to exclude any income from the block assessment on the basis of books of account and other documents maintained in the normal course. None of the provisions of Chapter XIV-B contemplates that an assessee shall be entitled to exemption even if he has not maintained any books of account or produced documents to satisfy the Assessing Officer that the income generated is not part of the undisclosed income.
- Therefore, it is the entire undisclosed income, that is liable to higher rate of tax and the assessee is not entitled to exclude the basic exemption granted to the assessee under section 139(1) without satisfaction of the Assessing Officer regarding the genuineness of the books of account or other documents in respect of his income.