

Cash deposits in saving bank account held a unexplained as assessee failed to prove source of deposits

Summary – The High Court of Calcutta in a recent case of Sushil Modi, (the Assessee) held that In absence of any proof with regard to cash deposited in assessee's saving bank account, Assessing Officer was justified in invoking provisions of section 69

Facts

- During the search and seizure operation, it was found that certain sum had been deposited in bank account of assessee. The assessee contended that said deposits were made out of cash balance available.
- In absence of any proof with regard to such availability of funds, Assessing Officer treated said deposits as income of assessee from undisclosed sources.
- On appeal, the Tribunal upheld the order of the Assessing Officer.
- On appeal, the assessee contended that said deposits had been reflected in final accounts of assessment year 1987-88 but he did not produce his final accounts of said assessment year

Held

- The assessee admittedly made an investment of a sum of Rs. 2,01,000 which was not disclosed by him in the returns filed under section 139. During search, his explanation was that 'the said deposits were made out of the cash balance available. In the absence of any proof with regard to such availability of funds, the Assessing Officer treated the aforesaid deposits as the income of the assessee from undisclosed sources.
- The assessee contended that the deposit had been reflected in the final accounts of his assessment year 1987-88. Therefore, the explanation offered at the relevant time and the explanation offered now materially differ. The explanation offered could have been proved by the assessee by producing his final accounts of the assessment year 1987-88 but he omitted to do so.
- Therefore, the case is clearly covered by clause (g) of section 144 of the Evidence Act.
- The Court is therefore entitled to apply the aforesaid presumption.
- The contention that the assessee need not prove his case and the Assessing Officer is bound to find corroboration by making independent enquiry is neither based on law nor is supported by reason.
- There is no error in the order under appeal.