

## Officer can have a Camp Office at taxpayer's house to examine him on oath after search and seizure

**Summary – The High Court of Karnataka in a recent case of Prakash V. Sanghvi, (the Assessee) held that where search of assessee's residential premises resulted into seizure of huge cash and panchanama was drawn, Authorized Officer was not barred from going to house of assessee and served notice on him to depose at said residence; it could not be said that Authorized Officer had trespassed into house of assessee and he deserved to be prosecuted**

### Facts

- In the appellate proceedings, the Single Judge held that the Assessing Officer was not vested with the power to have a camp office at the residence of the assessee and get his attendance in connection with the proceedings under the Act and, therefore, the impugned notice issued under section 131 was one without authority of law.
- On appeal:

### Held

- Sub-section (1) of section 131 confers the power on the authorities mentioned in the said provision the powers of a Court under the Code of Civil Procedure in respect of matters mentioned in the said provision. One such provision is enforcing the attendance of any person including any officer of a banking-company and examining him on oath. Sub-section 1(A) was inserted with effect from 1-10-1975 which provides that even before the authorized officer takes action under clauses (i) to (v) of sub-section (1) of section 132, if he has reason to suspect that any income has been concealed or is likely to be concealed by any person or class of persons, within his jurisdiction, then for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the revenue authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other revenue authority.
- In other words, sub-section (1A) vests in such an officer to exercise the power conferred under section 131(1) even before initiating any proceedings with respect to such person under the provisions of the Act. Once such power is vested, the authorized officer has an option to summon the person to appear before him at his office or he can go to the place of such person and examine him on oath. The said provision enables the authorized officer to enforce attendance if the person is not willing to appear before him.
- It is not necessary that in each and every case the attendance is to be enforced. If the person who has to be examined on oath voluntarily appears, the question of enforcing the attendance would not arise. Yet another instance is, when the officer himself goes to the place of a person for the purpose

of examining him on oath and if he deposes, the question of enforcing the attendance would not arise. The examination of such person on oath may be at the place of the authorized officer or at the place of person who has to be examined.

- In the instant case, the authorized officer went to the house of the assessee, the respondent herein, served notice on him to depose. In the said notice, as he should be notified whether he would be examined, it is mentioned that: 'you are hereby required personally to attend my camp at your residence'. Nothing could be read out of that phrase 'camp at your residence'. All that it means is, as he has already entered the premises of the residence, in order to comply with the legal requirement, he has served summons on him calling upon him to depose. To show the place where he should depose, the phrase, 'camp at your residence' is mentioned.
- In that view of the matter, the Single Judge was not justified in his view that the authorized officer has no right to enter the premises of the residence. The observation of the Single Judge that the authorized officer has trespassed into the house of the assessee and it deserves to be prosecuted before the competent criminal Court, has no legal basis.
- In fact, the Single Judge has not interfered with the search and seizure of cash of Rs. 40 lakhs from the premises of the assessee and the panchanama drawn on that day. Under these circumstances, the observations made by the Single Judge are unsustainable and are hereby set aside. Even the interpretation sought to be placed by the Single Judge on section 131 and section 132(1) is also contrary to law and is hereby set aside.