

Cash deposits in bank can't be held as undisclosed income without verifying source of deposits

Summary – The Amritsar ITAT in a recent case of Gurpal Singh, (the Assessee) held that where assessee made cash deposits in its bank account and Assessing Officer initiated assessment proceedings on fallacious assumption that bank deposits constituted undisclosed income, overlooking fact that source of deposits need not necessarily be income of assessee, assessment proceedings so initiated were to be set aside

Facts

- The assessee was found to be maintaining a savings bank account in which it had made cash deposits. He did not file any return of income.
- To verify the source of the said cash deposit, an inquiry letter was written to the assessee by the Assessing Officer.
- However, as there was no response to the inquiry letter issued, the Assessing Officer formed the belief that income of the assessee had escaped assessment. In view of these facts, the case of the assessee was sought to be assessed under section 147 by issue of notice under section 148. The Assessing Officer completed assessment by making additions on account of undisclosed cash deposit in the bank account of the assessee and also addition on account of undisclosed interest income and Commissioner (Appeals) confirmed addition.
- On appeal to the Tribunal:

Held

- Since in the instant case, no proceeding was pending before the ITO when he issued the letter of inquiry requiring the assessee to, inter-alia, produce evidence, such letter of inquiry is not valid in the eye of law. It does not require any cognizance to be taken of. And that being so, non-response by the assessee to the enquiry letter cannot be said to constitute material before the Assessing Officer which could lead him to form any belief of escapement of income.
- Further, mere fact that the deposits had been made in the bank account does not indicate that these deposits constitute income which has escaped assessment. Thus, it was a mere suspicion of the Assessing Officer, that prompted him to initiate assessment proceedings under section 147, which is neither countenanced, nor sustainable in law. Too, the Assessing Officer proceeded on the fallacious assumption that the bank deposits constituted undisclosed income, overlooking the fact that the source of the deposits need not necessarily be the income of the assessee. That being so, the reasons recorded to initiate assessment proceedings under section 147 and all proceedings pursuant thereto, culminating in the impugned order, are cancelled.