

## Order for direction for special audit was not to be quashed as interest of revenue wasn't mentioned

**Summary – The High Court of Gujarat in a recent case of Ulhas Securities (P.) Ltd., (the Assessee) held that Merely because Assessing Officer had not stated that accounts were required to be audited by Special Auditor in interest of Revenue, impugned order directing special audit was not required to be quashed, more particularly, when it was stated that looking to complexity and multiplicity of transactions, account were required to be verified by Special Auditor**

### Facts

- The Petitioner assessee was carrying on the business of trading in shares and securities as well as financing. Approximately 40,000 papers in 45 gunny bags in the case of Asaram Bapu and Narayansai Group were seized by the police authority. The petitioner-assessee's name figured in requisite documents.
- The petitioner assessee was asked to furnish various details such as ledger accounts, bank statements, confirmatory letters from unsecured depositors etc. During the course of block assessment for the relevant period, the Assessing Officer was of the opinion that the materials were very complex and, therefore, the accounts of the assessee for the relevant period were required to be audited by the special auditor. The Assessing Officer served with the show-cause notice upon the assessee. The assessee was given the opportunity of being heard as required in proviso to section 142(2A).
- The assessee submitted that as the books of account were duly audited, there was no need for another audit by special auditor. It was further submitted that the regular assessment had already been carried out on the basis of such annual account and, therefore, there was no need for special audit. After considering contention of the assessee, the Assessing Officer sought approval of the Principal Commissioner who accorded required approval, The Assessing Officer passed impugned order appointing special auditor for the relevant period.
- On the assessee's writ petition:

### Held

- It appears that many of the persons with whom the petitioner assessee has transaction/ relation/dealing are common and therefore, it cannot be said that the persons/Shadahaks named in the requisition material are alien to the assessee. Under the circumstances, when large number of papers are required to be considered/verified *vis-a-vis* assessee and other persons whose names figured in the requisitioned papers and when considering section 142(2A), the Assessing Officer has thought it fit to exercise of powers under section 142(2A), it cannot be said that the Assessing Officer has committed any error and/or illegality.

- It is required to be noted that impugned order has been passed after giving an opportunity to the petitioner and having satisfied with respect to the complexity and multiplicity of transactions.
- Considering the amended provision of section 142(2A), the special Auditor can be appointed if at any stage of the proceedings before him, the Assessing Officer having regard to the nature and complexity of the account of the assessee and the interest of the revenue, is of the opinion that it is necessary so to do, he may direct the account to be verified by the Special Auditor. Therefore, having regard to the nature and complexity of the account, if the Assessing Officer is satisfied and/or is of the opinion that accounts are required to be verified by the special auditor, he may pass such order. Therefore, on the aforesaid ground that the Assessing Officer has not stated that the accounts are required to be audited by Special Auditor in the interest of the revenue, the impugned order is not required to be quashed and set aside. Considering the object and purpose of section 142(2A), it appears that the accounts are required to be audited by the special auditor under Section 142(2A) with a view to facilitate the Assessing Officer in passing the impugned order.
- In view of the above and for the reasons stated above, there were no reason to interfere with the impugned order passed by the Assessing Officer. Under the circumstances, present petition deserves to be dismissed and is accordingly dismissed.