

‘Reason to believe’ isn’t required to be disclosed in case of search proceedings: SC

Summary – The Supreme Court of India in a recent case of N.K. Jewellers., (the Assessee) held that In view of amendment made in section 132A by Finance Act of 2017, 'reason to believe' or 'reason to suspect', as case may be, shall not be disclosed to any person or any authority or Appellate Tribunal as recorded by Income-tax Authority under section 132 or section 132A

Facts

- In a search by Railway Police (GRP), the employee of the appellant, who was returning from Amritsar was found in possession of Rs. 30 lakhs cash. Said employee sold gold biscuits and in return received the cost of 40 gold biscuits and previous balance totalling in all to Rs. 30 lakhs.
- The SHO, GRP Station, Jalandhar registered a case under section 411/414 of the Indian Penal Code.
- The cash was requisitioned by the Investigation Unit and seized.
- The explanation of the appellant before the Assessing Authority was that his employee had gone to Amritsar to make some purchases of gold but the transaction did not materialize. The Assessing Officer was of the view that the amount represented sales of gold made by the appellant on earlier occasions and the sale proceeds were being carried back to Delhi.
- The High Court has held that no substantial question of law arose for its consideration and it was merely a matter decided on the evidence on record.
- In instant appeals the appellant submitted that the proceedings initiated under section 132 cannot be based on a search conducted on a train by the police authorities and, therefore, block assessment proceedings were without jurisdiction.

Held

- In view of the amendment made in section 132A by the Finance Act of 2017, the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal as recorded by Income-tax Authority under section 132 or section 132A. That question cannot be gone into at all.
- Even otherwise, the explanation given by the appellant was disbelieved and had been treated as income not recorded in the books of account maintained by it.
- In view of the above, there is no infirmity in the order passed by the High Court.