

Section 69 additions deleted since assessee explained source of advance rental income

Summary – The High Court of Kerala in a recent case of Amritha Cyber Park (P.) Ltd., (the Assessee) held that Section 69 additions were to be deleted since assessee explained source of advance rental income

Facts

- The assessee company was engaged in letting out commercial spaces and entered into a contract with another company for letting out a commercial space towards which said other company had advanced certain amount as rent.
- The company, which advanced the rent could not occupy the premises since it could not receive certain licenses for carrying out the proposed business activities. This amount was shown as a liability in the accounts of the assessee.
- The assessee could not produce any agreement before the Assessing Officer towards receipt of rent. The Assessing Officer noticed that one of the Directors in the assessee company, was a director in that other company also. The Assessing Officer, hence treated it as an unexplained investment under section 69.
- The appellate authority, however, found that the money was credited through bank and there was a conformation letter from the Director of the creditor company. Hence, there was no cause for adding on the said amount as an unexplained investment or an unexplained cash credit, the Tribunal confirmed the order of the Commissioner (Appeals).
- On revenue's appeal:

Held

- The HC held that the Assessing Officer had specifically proposed to treat the amount as the assessee company's income in the assessment order itself. However, it could not have been treated as an unexplained cash credit or as an unexplained investment; since it was neither.
- The assessee had not produced any agreement and in all possibility there would have been a restrictive clause, insofar as forfeiture of the advance amounts, if the contract did not fructify.
- Accordingly, though the treatment of the amounts as an unexplained investment cannot be approved, the assessment has to be upheld as an income from business. The HC restored the order of the Assessing Officer with a modification by assessing the rent received in advance as income in the relevant previous year and not an unexplained cash credit or as an unexplained investment.