

Statement recorded of third person if additions were made after finding of facts - Sec. 69 rightly invoked

Summary – The High Court of Madhya Pradesh in a recent case of Vijay Jain, (the Assessee) held that statement recorded of third person if additions were made after finding of facts will not call for Section 69 addition

Facts

- The assessee was engaged in construction business.
- A statement under section 131 was recorded from the assessee wherein it was admitted that he had purchased shares of Rs.35,000 of the company and also invested in share application money at Rs.44.28 lakhs.
- The Assessing Officer examined the source and made some additions which were later accepted by the CIT(A).
- The Tribunal affirmed some of the additions made by the lower authorities and the balance addition was deleted. In respect of addition of Rs.20 lakhs as unexplained investment under section 69 in purchase agreement, the Tribunal, after appreciating the agreement between the assessee and other party, held that a Third party has confirmed/ admitted that he had seen the said agreement and as per the agreement, the assessee gave an amount of Rs.20 lacs to the second party and accordingly upheld addition of Rs.20 lakhs as unexplained investment under section 69.
- On appeal to the High Court:

Held

- It is settled position of law that statement is to be believed as a whole and not in piecemeal as one part suits to the assessee and other part does not suits to the assessee. The third party in his statement has clearly stated that he has entered into this agreement for purchase and paid an amount of Rs.8 lakhs as advance (Bayana), after seeing the executors of said agreement for purchase of 1/3rd land had an agreement with original owner of the land in which it was clearly mentioned that they have right to sell the said property and appellants have paid Rs.20 lakhs towards Bayana for the purchase of said land. It is viewed that the Tribunal rightly upheld addition of Rs.20 lakhs as unexplained investment under section 69.
- On due consideration of the aforesaid, so also the reasoning assigned by the Appellate Tribunal, it is viewed that the income tax appeal filed by the assessee has no merit nor any substantial question of law is arising in the matter.
- Accordingly the appeal is dismissed.