

Documents which are not legal evidence cannot be used for the purposes of making additions: ITAT

Summary – The Bangalore ITAT in a recent case of Dr. Ranjan Pai, (the Assessee) held that Documents which are not legal evidence cannot be used for the purposes of making additions

Facts

- A search and seizure was carried out at the premises of assessee. Thereafter, search proceedings were also carried out in case of another assessee wherein it was found that he had paid certain sum for purchase of land to the assessee. The Assessing Officer made addition to assessee's income on the basis of this document.
- In appellate proceedings, it was held that the document seized from the other assessee not a legal piece of evidence and it was not incriminating material and therefore it could not form basis of making addition.
- The Commissioner (Appeals) set aside addition made by Assessing Officer.
- On revenue's appeal:

Held

- The ITAT held that the basis of making addition was the document seized from the premises of the other assessee. The document is required to be proved in accordance with principle of Evidence Act as applicable in Income Tax proceedings, either by primary evidence or secondary evidence. The document relied upon by the revenue has not been proved by the revenue that it belong to the assessee nor it was proved that it contain incriminating material on the basis of which addition can be made.
- Further neither of the two persons who were searched have admitted to the said document and therefore onus of proving the document belonging to the assessee lies on the revenue and if it is found correct it can be relied upon in accordance with law. The revenue has failed to discharge its onus.
- In view of the above, the appeal of the revenue is without any merit and is liable to be dismissed.
- In view of aforesaid, revenue's appeal is dismissed.