

Titanor Components

In this BHC Goa Bench has allowed assessee's appeal and set aside ITAT order. In this case, BHC has considered in extenso implication of assessee's filing an application u/s 158A of the Act (*dealing with avoidance of repetitive appeals*) before ITAT. In this case, where assessee company on basis of similar controversy pending before Delhi High Court in its own case, filed before ITAT an application invoking section 158A, ITAT dismissed/not considered the same merely on objection by Assessing Officer and Department Representative (ITAT). BHC finding this approach erroneous has ruled that:

"Thus salutary provisions made by the Parliament to put an end to unnecessary litigation and to reduce number of cases required to be followed in letter and spirit, have been defeated in the present matter.

The word "agrees" used in Section 158A(1) does not mean that the Assessing Office or the appellate authority has been given any unbridled authority not to agree.

The subsequent provisions clearly require the authority to consider the facts and thereafter to either admit the declaration filed by the assessee or then reject it. The appellate authority is therefore required to judicially evaluate the reasons for "not agreeing" given by Assessing Officer and pass a reasoned order keeping in mind the design in adding Section 158 A to the Act. It is because of this application of mind envisaged by Section 158A that an order passed by the appellate authority or the assessing officer has not been made amenable to further challenge either by way of an appeal or revision or reference. The Parliament expects the authorities empowered under the said provisions to act in accordance with the spirit of the provisions made and, therefore, only after an order is made either way with due application of mind, the order has been made "not appealable" or "not revisable". As already observed above, the ITAT here has failed to apply its mind as required and therefore, the very purpose of putting Section 158A in the statute book has been frustrated.

In this situation, we find it appropriate to remand the matter to the ITAT, Panaji Bench, before whom declaration under Section 158A was filed by the appellant with direction to admit the claim of assessee in the said declaration and to proceed further as per section 158A(5) of the Act after the Hon'ble Delhi High Court adjudicates the appeals pending before it"