

## **CIT vs M/s Tips Industries P. Ltd.**

### Interpretation of Loose Documents:

“The first question raised by the revenue relates to deletion of Rs.3.2 lacs and Rs.3.12 lacs being additions made by the A.O. under Section 69C on the ground that the assessee has failed to explain the source of the expenditure noted at pages one and two of the seized papers. The assessee had contended before the A.O. that the above amounts represented the unaccounted wages paid to the employees during January to March 1998. It is apparent from the assessment order that no efforts have been made by the A.O. to verify the above explanation given by the assessee. The assessing officer has presumed that the above expenditure might have been incurred in the year of search relating to A.Y. 19992000 and while making additions on the basis of seized material, disallowed the expenditure by applying the proviso to Section 69C of the 1961 Act... Similarly, there is no material on record to suggest that the persons whose names are noted in the seized papers are not the employees of the assessee. In these circumstances, the finding recorded by the Tribunal that the amounts in question represent the amount paid by the assessee to its employees in AY 1998-99 cannot be faulted. Consequently, the first question raised by the revenue cannot be said to give rise to any substantial question of law.

### Prior WITHDRAWAL & Subsequent DEPOSIT:

As rightly held by the Tribunal, the statement recorded during the course of search does not even remotely suggest that the amount given to Mr.Desai (cashier) was out of the undisclosed income of the assessee. What was stated during the course of search was that the notings on page 7 of the seized papers represent amounts given to various persons. Therefore, once the cash withdrawal of Rs.5 lacs from the bank by the assessee is established, irrespective of the entry in the cash book, it was possible to reasonably hold that out of the cash withdrawal of Rs.5 lacs, an amount of Rs.4 lacs was given to cashier Mr. Desai. In such a case, it cannot be said that the decision of the Tribunal is perverse or contrary to the evidence on record.

### Alleged Unaccounted Expense

During the course of assessment proceedings, the assessee explained that the name ‘Ravi’ refers to Mr.Ravi Vachani, Director of Western Components Limited and the above notings merely represented the payment schedule based on the negotiation between Ravi Vachani and the assessee for sale of the entire music rights for a total consideration of Rs.68 lacs. The assessee contended that the said negotiations did not materialize and subsequently on 27/4/1999 an agreement was arrived at for sale of the music rights at Rs.60 lacs. Producing a copy of the agreement dated 27/4/1999 before the assessing officer, the assessee contended that since the notings contained in the seized papers did not materialise no addition can be made on the basis of the above notings. Rejecting the contention of the assessee, the assessing officer made additions of Rs.68 lacs as unexplained expenditure. The Tribunal deleted the addition on the ground that the written agreement with Weston Components Limited produced by the assessee gave credence to the explanation given by the assessee that the notings represented the payment schedule and not the actual payment.. There is no material on record to suggest that over and above the agreement dated 27/4/1999, the assessee had entered into an agreement with Weston Components Ltd. or any other person which could be connected to the notings contained in the seized paper. In these circumstances, the explanation given by the assessee being reasonable and possible, the decision of the Tribunal in accepting the contention of the assessee cannot be faulted”

