

Important judgements and Updates

Update No 31/ 2021

Magick Woods Exports Private Limited High Court of Madras In favour of Assessee

W.P. No.10693 of 2021 & WMP Nos.11326 and 11327 of 2021

Issues discussed and addressed:

Issue No 1 Faceless Assessment High Court in a writ proceeding, sets aside faceless assessment order passed without considering assessee's request for adjournment meant to collate and furnish the material necessary of assessment.

Facts of the case with respect to issue No 1:

Revenue issued show cause notice dated March 10, 2021 accompanied by draft assessment order, in response to which assessee sought adjournment whereas Revenue passed the final order without taking note of/ rejecting assessee's adjournment request.

Held by the Authorities with respect to Issue No 1:

Admittedly, the request for adjournment has not been rejected, neither the assessee duly intimated. Thus, there has been apparent violation of principles of natural justice.

The High Court directed the petitioner to comply with the directions in notice dated 10.03.2021 and intimate the Assessing Officer accordingly within a period of three (3) weeks. The respondents was directed to facilitate receipt of such reply by the petitioner by enabling the portal to receive the objections. Upon receipt of objections, the Assessing Authority will hear the petitioner and take forward the assessment and complete the same in accordance with law.

Rajamannar Thennati I.T.A. No. 294/Ahd/2018 Ahmedabad ITAT In favour of Assessee

Issues discussed and addressed:

Issue No 1 Income from Salary Remuneration refunded by Whole Time Director which was paid in excess of the limits prescribed limits under the law is not taxable as salary.

Facts of the case with respect to issue No 1:

Assessee was working as a whole time director of company S. AO alleged that assessee reduced his income from salary in revised return of income. On query, assessee explained that he was appointed as whole-time director in the annual general meeting of the company. Since there was limit for payment of remuneration to the whole time director as per the Company Act, 1956, and accordingly, he refunded the excess amount of salary to company. AO did not agree with the submission of assessee and held that salary due, whether

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received or not, and also salary paid or allowed to the assessee whether due or not, was chargeable to income tax as income from salary.

Issues discussed and addressed:

Since there was limit for payment of remuneration to the whole time director as per the Company Act, 1956, therefore, the company has made an application to the Ministry of Corporate Affairs, Govt. of India for approving the salary of the whole time director as per the resolution passed in the annual general meeting. Central Government has approved the salary of the whole time director at a lesser amount. Assessee was asked to refund the excess salary. In the case of the assessee, Central Government decided the remuneration according to the provisions of Companies Act, 1956 and the refund of the salary was not voluntary but was to comply with the legal requirement of law. The refund was made merely with a view to comply with the provisions of Companies Act, 1956, therefore, addition was not warranted.

Important Updates

- a. The CBDT has exempted Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities providing Covid treatment to patients from Section 269ST penalty. These entities can receive payment in cash of Rs. 2 lakh or more during 01.04.2021 to 31.05.2021, on obtaining the PAN or AADHAAR of the patient and the payee and the relationship between the patient and the payee.