

Important judgements and Updates

Update No 34/ 2021

Aditya Balkrishna Shroff ITA No. 4472/Mum/2019 Mumbai ITAT In favour of Assessee

Issues discussed and addressed:

Issue No. 1 Forex Gain Gains on repayment of forex loan given to NR relative, non-taxable being capital receipt

Facts of the case with respect to issue No 1:

Assessee extended a personal interest-free loan of USD 2 Lacs (equivalent to Rs.90 Lacs) to his cousin in Singapore under the Liberalised Remittance Scheme (LRS) of RBI and received Rs. 1.12 Cr. as the repayment thereof; Revenue held the forex gain of Rs. 22 Lacs arising on such repayment was taxable as income from other sources.

Held by the Authorities with respect to Issue No 1:

ITAT observes that the said loan was given on capital account and was not given in the course of business of the assessee and the accretion of money, in rupee terms, was on account of increase in the value of the US Dollars advanced as a capital transaction.

it was held that a capital receipt, in principle, is outside the scope of 'income' chargeable to tax and a receipt cannot be taxed as income unless it is in the nature of a revenue receipt or is specifically brought within ambit of 'income' by way of specific provisions of the Act.

Ramcharan Tej Konidala I.T.A.No.2074/Chny/2018 Chennai ITAT In favour of Assessee

Issues discussed and addressed:

Issue No 1 Revenue merely on the basis of chargesheet filed by CBI and without any corroborating evidence on payment of on-money for purchase of property, no additions can be made in the hands of the Assessee

Facts of the case with respect to issue No 1:

Assessee, an individual and film artist by profession, filed his return of income for the assessment year 2009-10 u/s 139 pursuant to which the assessment was completed u/s 143(3) of the Act. The assessment has been subsequently reopened u/s 147 of the Act for the reasons recorded, as per which income chargeable to tax had escaped assessment on account of on-money paid to M/s. Emaar Hills Township Pvt. Ltd. for purchase of property. The AO, on the basis of information received, opined that the assessee had paid on-money for purchase of property from M/s. Emaar Hills Township Pvt. Ltd. and accordingly, by taking note of various

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facts including charge sheet filed by CBI before the Special Court concluded that a sum of Rs. 1.54 crores was paid towards purchase of residential Villa ad measuring 4000 sq. yards.

Held by the Authorities with respect to Issue No 1:

unless the Assessing Officer brought on record some additional evidence to corroborate the findings recorded by CBI in the case of M/s. Emaar Hills Township Pvt. Ltd. to arrive at a conclusion that the Assessee has paid on-money for purchase of property, no addition can be made only on the basis of a chargesheet filed by the CBI, when proceedings are still pending before the CBI Special Court.

Important Updates

- a. The income-tax dept. is going to launch its new e-filing portal on June 7, 2021. The existing portal of the dept. at www.incometaxindiaefiling.gov.in wouldn't be available from June 1 to June 6, 2021.
- b. The Central Board of Direct Taxes (CBDT) has finalised the Computer Assisted Scrutiny Selection (CASS) 2020 Cycle for ITRs of Assessment Year 2019-20 for the current year. The board has approved the parameters for selection of cases and cases visible to the Assessing Officers.