

Seized Cash Should Be Treated As Advance Tax As Per Law, There Was No Default In Payment Of Advance: Delhi High Court

The Delhi High Court has held that the seized cash was offered by the assessee, under the regime that was prevailing then, to be treated as the advance tax, and thus there was no default in payment of the advance. Although its payment or adjustment was triggered due to a search action,

The bench of Justice Rajiv Shakti and Justice Girish Kathpalia has observed that the petitioner had offered Rs. 50 lakhs seized in search to be treated as advance tax. This endorsement is found both in the return on investment (ROI) as well as in the computation sheet accompanying the ROI.

The petitioner has the amount seized during the search action carried out under Section 132 of the Income Tax Act, 1961, which has not been treated as advance tax, although representation was made by him from time to time.

The assessee contended that copies of the documents seized were made available to the petitioner only on February 26, 2010. The Return of Income (ROI) for the AY in issue could only be filed on March 15, 2010. The computation sheet appended to the ROI categorically stated that the cash seized, i.e., Rs. 50 lakhs, should be treated as advance tax.

The department contended that adjustments could only be made against existing tax liabilities, and since no tax liability had been determined on the date of the cash seizure, the adjustment could not have been made otherwise than as self-assessment tax.

The court held that the ROI was filed, though after the search. The seized cash was offered by the assessee, under the regime that was prevailing then, to be treated as the advance tax, and thus there was no default in the payment of the advance. Although its payment or adjustment was triggered due to a search action, Lastly for the same reason, it cannot be said there was a deferment of payment of advance tax.

(Source: Livelaw.in)