

When addition has been made under the Black Money Law, double addition cannot be made under Income Tax Act: ITAT Delhi

DCIT Central Circle – 05 Delhi Vs Ashok Kumar Singh (ITA No.426 & 427/Del/2022)

Facts:

1. The assessee was the Director and Shareholder of a British Virgin Islands (BVI) Company namely M/s. Everbez Business Inc, details of which were not disclosed in the return of income.
2. Proceeding under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act 2015 (“BM Act”) had been initiated after examining the details/ materials including the information relating to the incorporation of the BVI company Everbez Business Inc. and also the copy of the foreign bank, accounts maintained in the name of Everbez Business Inc. which were not disclosed in returns of income.
3. Notices were issued under section 10 (1) of the BM Act on 25.09.2017 by the AO and Additional Commissioner of Income Tax, Central Range02, Delhi. However, final orders are yet to be passed under BM Act
4. However, as a matter of abundant precaution, income is also been protectively assessed by the AO. The unexplained credits of Rs.2,43,11,824/- in the bank account of Everbez Business Inc. is being added to his income for AY 2013-14 u/s. 68 r.w.s. 115BBE of the Income-tax Act, 1961.
5. The assessee challenged the matter before the CIT(A) and convinced the CIT(A) that the addition so made by the AO amounts to double addition and, therefore, the same should be deleted. The CIT(A) allowed the appeal.

ITAT Delhi held as below:

1. We are of the considered view that once additions have been made under Black Money Act the same addition cannot be made under the IT Act on the same set of facts.
2. Therefore, the deletion of the addition by the CIT(A) does not call for any interference.
3. Hence, the appeal by the revenue are dismissed