

AO Can't Take Advantage Of Assessee's Ignorance To Collect More Tax: Karnataka HC

Devendra Pai Versus the Assistant Commissioner of Income Tax (Writ Petition No. 52305/2018 (T-IT))

Facts:

1. The petitioner/assessee submitted that return of income for the assessment year 2004-2005 was filed and in the return filed, petitioner did not claim the benefit of exemption as was available under Section 10(10C) of the Income Tax Act, 1961. The respondent issued intimation under Section 143(1) of the Act accepting the return filed by the petitioner.
2. Subsequently, the assessee has sought to file a revised return. The respondent/ department has rejected the application for condonation of delay as time barred as return of income could not be condoned after 6 years from the end of the assessment year and thereby foreclosing the processing of revised return.
3. The assessee's application under Section 119(2)(b) had also been rejected on the ground that the same was filed beyond the period of 6 years, while observing that the Circular 9/2015 dated 09.06.2015 does not permit condoning the delay beyond 6 years.

The Hon Karnataka HC held as below:

1. The intention of Circular No.014 (XL-35) dated 11.04.1955 was not that tax due should not be charged or that any favour should be shown to anybody in the matter of assessment, or where investigations are called for, they should not be made. Whatever the legitimate tax it must be assessed and must be collected. The purpose of the circular is merely to emphasise that the tax officer should not take advantage of an assessee's ignorance to collect more tax out of him than is legitimately due from him
2. The delay of 6 years in filing revised Income Tax Return (ITR) may be condoned.