



Magnum Lex
Advocates & Consultants

NEWSLETTER

Issue I, Dated: 05.01.2021

JUDGEMENTS

1. Budhu Vs. Income Tax Officer

**No notice under section 148 of the Income Tax Act, 1961 can be issued merely on the basis of suspicion –
Income Tax Appellate Tribunal**

The brief facts of the case are that the Assessee is an individual who is engaged in agricultural activity during the relevant year. In the case of the Assessee, an information was received through annual information return (AIR) that, the Assessee had deposited Rs. 23,59,000 in his saving bank account maintained with the Punjab National Bank, (Uttar Pradesh). On being asked by the Assessing Officer, the Assessee submitted explanation of source of deposit; however, the AO was not satisfied with the explanation of the Assessee. In view of the information, the Assessing Officer issued a notice under Section 148 of the Income-tax Act, 1961.

The Assessee filed return of income declaring agriculture income of Rs. 66,000 and interest income of Rs. 10,361 along with copy of receipt of advance of Rs. 25 lakh and copy agreement to sale of land. After filing return of income, the

Assessee was provided reasons recorded for issuing notice under Section 148 of the Act. The objections filed by the Assessee against the reasons recorded were also addressed by the Assessing Officer. The assessment under Section 147 read with section 143(3) of the IT Act was completed on 31st March, 2014, after making addition of Rs. 20 lakh. The Learned Commissioner of Income Tax (Appeal) [CIT(A)] vide impugned order upheld the addition to the extent of Rs. 18.59 lakhs. Aggrieved by the said order, the Assessee is in appeal before the Tribunal.

The Assessee has contested that notice issued under section 148 of the Act is beyond jurisdiction being without any 'reason to believe' and 'satisfaction' of the Assessing Officer. According to him in the reasons recorded the Assessing Officer has mentioned that further investigation was required to find out the actual source of the cash deposits.

The Hon'ble Income Tax Appellate Tribunal held that *"It is evident from the reasons recorded that at the stage of issue notice under section 148 of the Act, the Assessing Officer was suspicious on the source of the cash deposits and, therefore, he wanted to investigate further to find out the actual source of the cash deposits. At the stage of issue of notice, the Assessing Officer was not sure whether income had escaped to tax or not. No notice under section 148 of the Act can be issued merely on such suspicion. There has to be a reasonable material before the Assessing Officer on the basis of which a reasonable person can*

make requisite belief. In the instant case, there is lack of reasonable material to form a reasonable belief that income has escaped tax. Under the circumstances, the action of the Assessing Officer of reopening assessment in exercise of the power under section 148 of the Act cannot be sustained.”

Link:

<https://www.itat.gov.in/files/uploads/categoryImage/1608707389-ITA%20%20NO%201941%20OF%202016%2C%20BUDHU%20VS%20ito.pdf>

NOTIFICATIONS

1. Air Quality Commission calls for strict implementation of RFID system at 13 toll plazas of Delhi – Press Information Bureau (29.12.2020)

The Radio Frequency Identification (RFID) system was set-up at 13 Toll Plazas in Delhi to control vehicular pollution from commercial vehicles entering Delhi. These 13 toll plazas contribute to about 70 % commercial vehicles entry to NCT of Delhi.

It was brought into the notice of the Commission for Air Quality Management for Delhi NCR and adjoining areas that RFID is not being fully implemented at 13 toll plazas in Delhi w.e.f. 14/08/2020 and waiver is being given to Commercial

Vehicles without such RFID tags or inadequate balance in the tags.

Considering the pollution scenario in Delhi and the fact that commercial vehicles are important contributor to the vehicular pollution, South Delhi Municipal Corporation (SDMC) has been instructed to ensure RFID compliance at all the 13 toll plazas with effect from 01st January, 2021 and disallowing entry of vehicles without RFID tags or inadequate balance in the tags.

SDMC has also been directed to give adequate publicity and advance intimation to minimize inconvenience to the drivers of commercial vehicles entering Delhi.

Link:

<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1684402>

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Magnum Lex, Advocates & Consultants

Office No. 101, A-32, First Floor, Patparganj, Mayur Vihar-Phase 1, Near
Una Enclave, Delhi-110091

Email Id: info@magnumlex.com , magnumlex123@gmail.com

Website: www.magnumlex.com