



TEL HC: Holds That Section 142A Cannot Be Used To Reopen Completed Assessments

Facts of the Case

The Assessee was engaged in the business of construction and development. During a survey conducted u/s 133A, the Revenue alleged that the Assessee had not maintained proper stock registers and that certain construction-related expenses such as sand, steel and labour charges were not fully verifiable. Without rejecting the books of accounts u/s 145, the Assessing Officer (AO) referred the matter to the District Valuation Officer (DVO) u/s 142A for valuation of 22 properties constructed by the Assessee. Based on the DVO's report, the AO determined that the cost of construction disclosed by the Assessee was understated and made additions u/s 69 by apportioning the difference across multiple assessment years.

Contentions of the Assessee

The Assessee contended that the reference to the DVO u/s 142A was without jurisdiction since the AO had neither rejected the books of accounts nor pointed out any defects in them. It was argued that where books of accounts are duly maintained and accepted, no addition can be made solely on the basis of a DVO's report. The Assessee further submitted that ` 142A permits reference to DVO only during the course of assessment or reassessment proceedings and not for the purpose of gathering material for reopening completed assessments. The Assessee placed reliance on the decisions of the Supreme Court in Sargam Cinema and Delhi High Court in Aar Pee Apartments Pvt. Ltd.

Contentions of the Revenue

The Revenue argued that the discrepancies noticed during the survey, including non-maintenance of stock registers and undervaluation of construction expenses, justified invocation of section 142A. It was submitted that the AO was empowered to seek a valuation report from the DVO to determine the correct cost of construction and that due opportunity was granted to the Assessee before making additions u/s 69. The Revenue also argued that rejection of books of accounts was not a precondition for invoking section 142A.

Order of the High Court

The Telangana High Court dismissed the Revenue's appeal and upheld the order of the ITAT deleting the additions made on the basis of the DVO's report. The High Court held that the AO had not rejected the books of accounts nor demonstrated any defects therein before making a reference to the DVO. The Court observed that section 142A (as it stood at the relevant time) can be invoked only during the course of assessment or reassessment proceedings where the AO requires valuation for determining the value of investments u/ss 69, 69A or 69B. The provision does not empower the AO to seek a valuation report merely for collecting information to reopen assessments. The High Court further held that additions cannot be sustained solely on the basis of DVO's report when the books of accounts are neither rejected nor found defective. Accordingly, the Court held that the reference made to the DVO and the consequential additions were not in accordance with law.

**Citation**

CIT v. Legend Estates Pvt. Ltd. (ITA No. 47 of 2013)

Our Comments

The decision reiterates the settled principle that a valuation report cannot substitute proper examination of books of accounts and provisions u/s 142A cannot be used for reopening completed assessments. The judgment also highlights that, in the absence of rejection of books of accounts u/s 145, additions based solely on DVO reports is unlikely to survive judicial scrutiny.