Ashok Vardhan Kothari v. Commissioner of Income Tax, Central-II, Kolkata

ITA/648/2004

ITA/648/2004 (High Court at Calcutta, 2024-02-06) | 2024-02-06

Cash addition and block assessment failed: supporting books ignored and mandatory section 158BD satisfaction absent.

Income-tax Act,1961: sections 131, 158BC, 158BD

High Court at Calcutta | 2-judge bench (Division Bench) | Justice Surya Prakash Kesarwani | Justice Rajarshi Bharadwaj

Assessment years: Block period 1 April 1989 to 9 September 1999

01 FACTS OF THE CASE

Cash of Rs.12,57,150 was seized from the appellant's father's premises during a search under a warrant naming GIS Ltd. The appellant explained that it belonged to Zenith Finvest, ARC Finance and S. K. Investment and was kept with his father for safekeeping. Books of the appellant's concerns were seized in a separate search.

Source: PDF pp.2–7

02 DISCUSSION BY THE HON'BLE COURT

The Court found sufficient cash balances and corroborating books and payment evidence. It rejected the AO's vague objection concerning payers' sources. Revenue's counsel also admitted that no section 158BD satisfaction note had been recorded.

Source: PDF pp.7–9, paras 8–11

03 JUDICIAL DECISION

Ignoring the supporting evidence rendered the addition perverse. Applying Calcutta Knitwears, the Court held satisfaction mandatory for proceedings against the other person; its admitted complete absence made the proceedings illegal.

Source: PDF pp.8–14, paras 10–16

04 OUTCOME / IN WHOSE FAVOUR

Tribunal order of 23 April 2004 set aside; questions answered for the assessee and appeal allowed to the extent stated.

Source: PDF p.14, paras 17–18

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Ownership and availability required connected evidence: The Court did not accept a bare assertion that the cash belonged elsewhere. It relied on seized cash books, available balances, the explanation of custody and confirmations of hire-purchase payments. In a comparable dispute those links matter more than isolating the appellant's initial statement that the money belonged to him from his explanation of the entities for which he acted. (PDF pp.4–8)

Jurisdiction was an independent ground: The absence of a satisfaction note was admitted by Revenue, not inferred merely from the assessment order's wording. The Court applied the section 158BD requirement as explained in Calcutta Knitwears. The quoted authority permits specified stages including immediately after completion of the searched person's assessment; this case does not hold that a note must invariably predate that assessment. (PDF pp.9–14)

Keep the historical block regime and printed figures distinct: This decision concerns the stated block period ending 9 September 1999 and the former block-assessment provisions. The source prints S. K. Investment's claimed share as Rs.6,30,000 but later records Rs.6,33,000 as the cash-book seizure entry. The Court accepted the overall explanation; that discrepancy should not be silently converted into a new reconciliation or a general exemption from proving cash sources. (PDF pp.2, 6–8, 14)

Source: PDF pp.4–8

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 14-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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