Sun Aero Ltd. v. Principal Commissioner of Income Tax

ITA 527/2017

2026:DHC:5581-DB; ITA 527/2017 | 2026-07-08

Chapter XIV-B block assessment annulled: absence of section 143(2) notice and reliance on post-search material; respondent's legal grounds could support the favourable CIT(A) order without a cross-appeal.

Income-tax Act, 1961: sections 132, 143(2), 143(3), 158BC, 260A; sections 45/47(v) merits left open

High Court of Delhi | 2-judge bench (Division Bench) | Justice Dinesh Mehta | Justice Rajneesh Kumar Gupta

Assessment years: 1995-96

Jurisdictional annulment; subsidiary-status merits left open

The Court quashed the block assessment and Tribunal order without deciding the third question on sections 45/47(v). Its paragraph 37 says both questions were answered affirmatively, although question 2's literal wording points the other way; the operative result is unambiguous.

01 FACTS OF THE CASE

Sun Aero claimed to be Sun Air Hotels' wholly owned subsidiary. Rights received for nil consideration during the NDMC dispute were transferred back in 1995 for Rs. 21 crore; exemption under section 47(v) was accepted in scrutiny on 9 February 1998 for AY 1995-96. A search at Sun Aero's premises on 21 November 2000 led to the block addition dated 29 November 2002. After CIT(A) relief, an initial Tribunal dismissal of Revenue's appeal and a 2012 High Court remand, the Tribunal allowed Revenue's appeal on 20 September 2016.

Source: PDF pp. 2-4, paras 4-11

02 DISCUSSION BY THE HON'BLE COURT

The Court held that Sun Aero could support the favourable CIT(A) order on permissible legal grounds without a cross-appeal where no additional evidence was required; the remand had left issues open. On the search issue, some material was indicated, but no finding connected it to the adverse subsidiary-status inference. The assessment instead relied on post-search investigation. Applying Hotel Blue Moon and Silver Line, the Court also found no evidence of a section 143(2) notice, and Revenue could not produce one.

Source: PDF pp. 11-15, paras 23-36; authorities at pp. 6-8

03 JUDICIAL DECISION

The first two jurisdictional questions were decided for the assessee. The assessment dated 29 November 2002 and Tribunal order dated 20 September 2016 were quashed, with consequences to follow. The third question concerning the Rs. 21 crore addition under sections 45/47(v) was expressly left undecided.

Source: PDF p. 15, paras 37-41

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal succeeded by annulment of the block assessment. The judgment does not determine whether Sun Aero met the wholly owned subsidiary condition or grant a fresh merits ruling on the capital-gains exemption.

Source: PDF p. 15, paras 39-40

05 EXPERT COMMENTS

Supporting relief differs from seeking new relief — CIT(A) had already ruled for the assessee, and the Tribunal was hearing Revenue's appeal. The Court permitted supporting legal arguments without a cross-appeal where they did not depend on additional evidence. This procedural holding should not be enlarged into freedom to introduce any fresh factual case or seek unrelated affirmative relief without proper procedure.

Trace the material and the inference separately — Paragraph 31 recognises indications of search material, including share certificates, but identifies no recorded finding connecting that material with the conclusion about subsidiary status. Paragraphs 32-33 treat the operative material as collected after the search. A blanket statement that nothing was seized would erase that distinction; the source and timing of the evidence supporting the addition are central.

The notice finding rests on this record and regime — The Court found no evidence of issuance, and Revenue could not produce the notice despite attempts to locate the old record. Hotel Blue Moon, (2010) 3 SCC 259, and Silver Line, (2016) 383 ITR 455, support the jurisdictional analysis. Do not export the quoted historic one-year period or this Chapter XIV-B result to every later search-assessment regime without examining its statute.

Read the operative order through its express limits — Paragraph 40 leaves the section 45/47(v) question open. Paragraph 34 inconsistently calls Silver Line "Silver Lining" and once prints section 143(3) for the notice; the surrounding discussion and paragraph 36 establish section 143(2). Likewise, the affirmative wording for question 2 should not reverse the clear annulment. These are disclosed source inconsistencies, not new holdings.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court of Delhi official judgment PDF - AKHB Repository (DLHC012648912017_1_2026-07-08.pdf)

15-page official High Court of Delhi judgment PDF (DLHC012648912017_1_2026-07-08.pdf, 457,046 bytes).

All 15 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Historic Chapter XIV-B block proceedings; the disputed transaction relates to AY 1995-96. The complete block-period endpoints are not stated. The section 45/47(v) question was left open; section 158BD is not invoked in this source.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not 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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