

R.M.M. Law College, Sahasra
L.B. Part - IIIrd
Paper - VIIIth
Taxation Law

Discretionary Best Judgement Assessment (S.145)

(1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify in the official gazette from time to time accounting standards to be followed by any class of assessee or in respect of any class of income.

(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) or accounting standards as notified under sub-section (2), have not been regularly followed by the assessee the Assessing Officer may make an assessment in the manner provided in Section 144.

Method of accounting adopted by the Assessing Officer has to be consistent with

(2)

accepted principles of accounting. It is not open to Assessing Officer to treat outgoing as income under section 145 of the Act.

In *United Commercial Bank v C.I.T.*, the Supreme Court has held that for the purpose of income tax whichever method is adopted by the assessee, a true picture of the profits and gains, that is to say the real income is to be disclosed. For determining the real income the entries in a balance sheet required to be maintained in the statutory form, may not be decisive or conclusive. In such cases, it is open to the income tax officer as well as the assessee to point out the true and proper income, while submitting the income tax return. The Court has made it clear that for valuing the closing stock, it is open to the assessee to value it at the cost or market value, whichever is lower. In the balance sheet, if the securities and shares are valued at cost but from that no firm conclusion can be drawn. A tax payer is free to employ for the purpose of the trade, his own method of keeping accounts and for that purpose, to value stock-in-trade either at cost or at market price.

A method of accounting adopted by the tax-payer consistently and regularly cannot be discarded adopted by

(3)

The departmental authorities on the view that he should have adopted a different method of keeping accounts or of valuation.

The concept of real income is certainly applicable in judging whether there has been income or not but, in every case, it must be applied with care and within their recognised limits.

Whether the income has really accrued or arisen to the assessee must be judged in the light of the reality of the situation.

The Court has held that under Section 145 in a case where accounts are correct and complete but the method employed is such that in the opinion of the I.T.O., the income cannot be properly deducted therefrom the computation shall be made in such manner and on such basis as the I.T.O may determine.