



## Whether book profits can be increased on the basis of Form 26AS for the purpose of section 115JB?

### Recent pronouncement:

Mumbai ITAT in the case of Everest Kanto Cylinder Ltd.

### Issue :

Assessee-Company was subjected to assessment proceedings for AY 2013-14 whereby Revenue found a difference in the interest income returned by the Assessee and the amount reflected in Form 26AS, and directed assessee to reconcile it. Post reconciliation the assessee offered the differential amount of income to tax under the normal provisions of the Act.

Further, the revenue made the addition of such income to the book profits under section 115JB of the Act. This decision of the revenue was upheld by the CIT(A). Assessee filed an appeal with ITAT against the order of CIT(A).

### Judgment:

On perusal of Explanation 1 to Section 115JB, ITAT observed that book profit means the profit as shown in the profit and loss account for the relevant previous year drawn according to the provision of Section 129 of the Companies Act, 2013. Further, noted that it was not Assessee's case that income shown in Form 26AS was not its income or was not required to be shown in the books of account and remarks:

*“the income which was now shown and offered by the assessee as income of the assessee was required to be duly shown by the assessee in the book profit while preparing the accounts, including the statement of the profit and loss account”;*





Observed that a pedantic interpretation to the book profit as mentioned in the explanation would be an antithesis to the purpose, for which it was enacted by the legislature and would result in absurdity and contradictions.

Thus, dismissed Assessee's appeal and upheld that the addition to book profits of the amount offered under normal tax provisions and reflected in Form 26AS. ITAT Opined that:

*“once the error was committed by the assessee in preparation of Profit and loss statement by not adding the entire amount shown in 26AS as income of the assessee either on account of omission, inadvertent error or by way of fraud which was otherwise required to be included in the statement of the profit and loss account, then it cannot be said that the said amount which was wrongly or deliberately or otherwise left to be included in the book of accounts, cannot be added to the book profit for the purpose of section 115JB”*

*\*in the favour of revenue*





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