

AO can't open his office in assessee's front yard and summon him to give statement for IT proceedings

Summary – The High Court of Karnataka in a recent case of Prakesh V. Sanghvi, (the Assessee) held that Assessing Officer/Commissioner does not have authority and jurisdiction to open his camp office in residence of assessee and call assessee's attendance in connection with proceedings under Income-tax Act

Facts

- The assessee challenged the proceedings initiation under section 132 against him. It was the case of assessee that the first respondent claiming to be a salesman, gained entry into the assessee's home and illegally opened his camp office inside the house, sans authority, and issued the summons invoking section 131 summoning the assessee to appear before him in the camp office in the assessee's home for giving evidence, producing books of account and other documents.
- On writ petition:

Held

- A bare perusal of the provisions of section 131 discloses investing a jurisdiction in the Assessing Officer, Deputy Commissioner, Joint Commissioner, Commissioner (Appeals) and Chief Commissioner or Commissioner and the DRP, referred to in *clause (a)* of sub-section (15) of section 144C over power regarding discovery, production of evidence, *etc.*, as are powers vested in the Court under the CPC, 1908 (5 of 1908), while trying the suit in matter of discovery and inspection, amongst other matters.
- A perusal of order XI, CPC under the nomenclature 'Discovery and inspection' and rules 1 to 23 thereunder, do not indicate that the Court can issue notice to a party and open a Court in the house of the party and call upon that party to give statement in his house. Thus, the notice issued by the first respondent requiring the attendance of the assessee in connection with the proceedings under the IT Act in a case, at the camp office in the residence of the assessee to give evidence or to produce either personally or through Authorized Representative, the books of account and other documents, is one without authority of law.
- The allegation that the first respondent trespassed into the house of the assessee and thereafter issued the notice to him, is not controverted and in that case, the first respondent deserves to be prosecuted before a competent criminal Court, if so advised.