

Direction given for initiating reassessment proceedings after expiry of period of limitation to be set aside

Summary – The Lucknow ITAT in a recent case of Allahabad Bank Karamchari Co-operative Credit Society Ltd., (the Assessee) held that direction given for initiating reassessment proceedings after expiry of period of limitation to be set aside

Facts

- The assessment of the tax return of the assessee was completed by AO under section 143(3) read with section 147 wherein assessee's claim for deduction under section 80P was disallowed.
- The Commissioner (Appeals) annulled the assessment order holding that the issuance of the notice under section 148 was bad in law for want of jurisdiction of the Assessing Officer to do so and directed the jurisdiction the Assessing Officer to execute remedial action under section 148 of the Act.
- The assessee filed instant appeal contending that the Commissioner (Appeals) erred in law and on facts in giving direction under section 150 to the Assessing Officer to execute remedial action under section 148.

Held

- The ITAT held that as per section 149(1)(b), if four years, but not more than six years have elapsed from the end of the relevant assessment year, and if the income chargeable to tax which has escaped assessment amounts to one lakh rupees or more for that year, notice under section 148 for the relevant assessment year shall be issued.
- The ITAT determined that in the present case the period during which notice under section 148 could have issued had already elapsed
- It is well settled that an appellate authority cannot confer jurisdiction which the Assessing Officer does not have, *e.g.*, as in the case of an assessment being barred by limitation.
- In view of the above, finding the grievance of the assessee to be justified, the same is accepted. The direction in question, *i.e.*, the direction issued by the Commissioner (Appeals) hereby ordered to be expunged.
- In the result, the appeal is allowed.