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(1972) 83 I.T.R. 521(Ker.)

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The breach of natural justice is itself the miscarriage of justice which enables the applicant to succeed, and never before has it been held that the court is entitled to refuse him relief. (1972) 83 I.T.R. 521(Ker.)

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(1978) 111 ITR 513(GAU.)

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Violation of the principles of natural justice, and, more particularly, violation of statutory principles of natural justice, as in the instant case, takes away the jurisdiction of the authority concerned to proceed with the proceedings and make the assessment orders and necessarily invalidates the proceedings and the orders passed therein. If you want to assess the estate of the deceased assessee, the estate must be fully represented by impleading all the legal representatives and serving notices on all of them who represent the entire estate. If you do not do that, assessment proceedings and assessment orders passed therein will cease to be valid proceedings and valid orders in the eye of law. Thus, it was the legal duty of the Appellate Assistant

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(2000) 57 TR 47(AJEMERA)

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IT PANEL ORDER ON DISPUTED INCOME QUASHED :: The High Court also accepted Mr. Chatterjee's contention that the Commission could not have proceeded when it became clear that the assessee did not make full and true disclosure in the first instance. The assessee was required, by the provisions governing the Commission, to make full and true disclosure of income in the first instance. In this case, the assessee had made additional disclosures at several stages. The subsequent disclosures were in violations of the provisions of law and its spirit, the court observed. The High Court also accepted the contention that the

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[2001] 70 TTJ 728(ALL 'A')

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NATURAL JUSTICE :: Principles of - Unless the law expressly or by necessary implication excludes the application of the rule of natural justice - Courts will read the said requirement in an enactment that are silent and insist on its application even in cases of administrative action having civil consequences, [2001] 1GLR 420

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[2001] 71 TTJ 158(MAD. 'A')

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SEARCH AND SEIZURE - BLOCK ASSESSMENT :: Opportunity of being heard - AO having validly assumed jurisdiction under s. 158BA(1) there was only a partial failure to comply with rules of natural justice when the AO supplied only a summary of proposed additions without the reasons for the additions and therefore, the block assessment cannot be cancelled on this ground - Draft assessment order and block assessment set aside and matter restored back to AO for making fresh assessment after giving a full, fair and effective opportunity to assessee to make his representations .-- L.SAROJA v. ASSTT. CIT, [2001] 71 TTJ 158(MAD. 'A')

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NATURAL JUSTICE :: Disciplinary authority taking a different view setting aside the findings of the Enquiry Officer exonerating the delinquent - Necessary to afford an opportunity of hearing - Failure to afford opportunity of hearing will result in violation of principles of natural justice, [2001] 1 GLR 537

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NATURAL JUSTICE :: Principles of natural justice are part of Article 14 of the Constitution and have application to departmental proceedings, [2001] 1 GLR 335

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[2000] 164 CTR 273(BOM.)

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CIT v.BHARATKUMAR MODI & ORS.

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ASSESSMENT-VALIDITY-OPPORTUNITY OF BEING HEARD :: Tribunal was not justified in annulling the assessment on the ground that the AO had made assessment without confronting the assessees with the material gathered by him on enquiry - Infraction of the rules of natural justice is an irregular exercise of jurisdiction which cannot result in annulment of the entire assessment - Substantial question of law arises .--CIT v.BHARATKUMAR MODI & ORS., [2000] 164CTR 273(BOM.)

CITATATION

(2001) 117 Taxmann 610 (SC)

CASE

Appropriate Authority vs. Vijay kr. Sharma

Contents

U/s. 269 UD of the I.T.Act the Appropriate Authority neither stated its opinion about fair market value of the Property being 15% more than the apparent consideration nor did it refer to material on which such opinion was based. There was a short period of adjournment of hearing and venue was changed without giving sufficient time to the respondent to make travel arrangment and the Appropriate Authority passed ex parte orders for pre-emptive purchase. The Allahabad High Court and the Supreme Court quashed proceedings as there was complete disregard of principles of natural justice. Appropriate Authority vs. Vijay kr. Sharma. (2001) 117 Taxmann 610 (SC)

CITATATION

(2001) 116 TAXMAN (Chennai-Trib.)

CASE

V.Dhivakaran vs. Dy. CIT

Contents

BLOCK ASSESSMENT IN SEARCH CASES - Assessment of undisclosed income - Block perio d 1996-97 -Assessee's premises was searched on 24-09-1996 and cash,jewellery, documents,etc., were seized and notice was issued - when assessee challenged notification u/sec.127(1) transferring case from Trichy to Chennai, High Court granted interim stay on 02-09-1997 -department issued fresh notification after following priscribed procedure which became effective from 16-04-1998 and framed assessment on 03-12-1998 -assessee contended that as assessment was not completed within 28 days from 16.04.1998,it was barred by time - whether when High Court had granted stay,it was impossible for authorities to restart proceedings

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(2001) 117 TAXMAN (Punj. & Har.)178

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Vipan Kr. Jain vs. Union of India

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SEARCH & SEIZURE - petitioners contended that respondent Director of investigation issued warrants of authorisation to search thier premises arbitrarily and without jurisdiction and that appointment of investigating officer of search as assessing officer was violative of principal of natural justice -whether order recorded by respondent - Director of investigation in instant case showed that he had reasonable information available before issuing said authorisation and, therefore, in absence of any other cogent material and allegation of any malafide on part of respondent, there was need to quash search warrants -held,yes- whether since it was respondent no.5 who headed raiding party which effected search in premises of petitioner nos.2 and 4 and he

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CITATATION

[2000] 113 Taxman 386

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CIT vs. Cadila Chemicals.

Contents

Assessment - Validity of - Assessment year 1992-93 - whether infraction of rule of natural justice affects only legality of order and not jurisdiction of authority passing order- held,yes - in Income-Tax returns, the assessee took huge amount as agricultural income for aggregation- Assessing Officer, after investigation, found that concealed income was shown as agricultural income- however, he did not confront assessee with gathered material but made additions to income- On appeal, Commissioner (Appeals) found that there was violation of natural justice to a certain extent - he merely set aside Assessing Officer's order and remitted matter for fresh adjudication- however, Tribunal annulled assessment -whether though decision arrived at by Assessing Officer

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(2001) 118 Taxman 189

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R.K. Rice & General Mills vs. ITO (Chd. -Trib.)

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ASSESSMENT -Additions to income - Whether having regard to fact that earlier opportunity to cross-examine 'TR', particularly when facts stated in affidavit were contrary to his deposition, was not allowed to assessee by Assessing Officer before making addition, which was in violation of principles of natural justice and that assessee had taken quantity purchased in its books of account and used them in milling process if the quantities so purchased were held to be bogus, the yield of rice and its by - products would exceeds 100% which was against the accepted norms, Commissioner(Appeals) was justified in deleting addition made by Assessing Officer - held, yes - R.K. Rice & General Mills vs. ITO (Chd. -Trib.)

CITATATION

[2001]117 Taxman 113 (All.)

CASE

Kanhaiya Lal(HUF) vs. CIT

Contents

Asst. Yr. 1992-93 -Whether principle of natural justice requires that whenever any material is proposed to be used against a party, copies of same should be supplied in advance to that party so that it can have an opportunity to explain same or rebut it - Held, yes - Whether where petitioner's application u/s. 273A was rejected without doing so, impugned order was liable to be set aside - Held, yes

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[2000] 164 CTR (Bom) 273

CASE

CIT v. Bharatkumar Modi & Ors.

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Tribunal was not justified in annulling the assessmenton the ground that the AO had made assessment without confronting the assessees with the material gathered by him on enquiry- Infraction of the rules of natural justice is an irregular exercise of jurisdiction which can not result in annulment of the entire assessment- Substantial question of law arises. CIT v. Bharatkumar Modi & Ors. (Bom) 273

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(2003) 126 Taxman 87

CASE

Rajesh Mahajan vs. CIT (Pun-& Har.)

Contents

Whether for an action u/s 127 to be valid in law, reasons for action must be communicated to assessee and non- communication of reasons to assessee can not be justified by showing that reasons existed on the file although same were not communicated to assessee -Held, yes -Whether it is essantial that show-cause notice issued u/s 127 should desclose to assessee reasons/ basis of contemplated action in terms of mandate of rules of natural justice -Held, yes- Whether an assessee has right to file objections on receipt of a show -cause notice issued under section 127and in absence of such liberty, assessee can not be stated to have been afforded a 'resonable opportunity' as contempleted by provision. Held, yes- Whether section 127 requirs

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CITATATION

[2003] 126 Taxman 88

CASE

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Supreme Court in Smt. Azizunnisa Begam's - Whther decision slams the doors on natural justice.

CITATATION
[2002] 125 Taxman 1104

CASE
Tinwari Automobiles vs. UOI (Raj.)

Contents
Procedure for - Whether service of notice is a condition precedent for making of an order under provision of the Act and any material placed on record without notice to assessee cannot be relied upon by revenue being violative of principles of natural justice - Held,Yes - Residential premises of petitioner was searched - Authorised Officer, i.e.Dy.Director(Inv.),called upon petitioner to furnish verious informations - petitioner also received a notice from Assistant Commissioner issued under section 158BC calling upon it to submit true and correct return for block period- During pendency of writ about jurisduction, Assistant Commissioner further issued a show- cause notice to petitioner - In stay application revenue admitted that further preceedings

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CITATATION
(2002) 177 CTR 108

CASE
J.T(India) Exports vs Union of India(Del)FB

Contents
Scope and applicability - Rule of audi alteram partem requires that a party should be put on notice of the sase and a reasonable opportunity of being heard should be given to it before any adverse order is passed against it-Even if grant of an opportunity of hearing is not specifically provided for in positive words in the Act or Rules it has to be read into the unoccupied interstics and unless specifically excluded, principles of natural justice have to be applied -J.T(India) Exports vs Union of India(Del)FB (2002) 177 CTR 108

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Compliance of natural justice by quasi judicial authorities - V. Ramaswami [2003] 179 CTR 28

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[2003] 129 Taxman 59 (SC)

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Union of Inda vs. Vipan Kumar Jain (SC)

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Whether in absence of any challenge to provisions of Act relating to Jurisdiction of Assessing Officer to carry out search u/s 132, subject to his being appointed as an authorised officer thereunder, there is no question of umputing or presuming a bias where action is followed under that section - Held,yes - Whether there is nothing inherently unconstitutional in perniting Assessing Officer to gather information and to assess value of information himself - Held,yes- Whether Courts cannot read in limitations t jurisdiction conferred by statutes, in absence of a challange to provision itself, when language of Act clearly allows for an ostensible voilation of principles of natural justice including principle that a person cannot be a judge on his own cause - Held,yes -

CITATATION

[2002] 1 GLR 291 (Gau)

CASE

Binoy Bhusan Bardhan And Ors. vs. Champa Devi Sanc

Contents

Order passed by way of a direction to compete the demolition of building within 15 days as per law and thereafter to show cause as to why the order passed shall be made absolute - Persons to be effected by the demolition order not made parties under the proceedings - No opportunity given to the petitioner directly and adversily effected by the order - Order ex facie not permissible uner law - Order held to be violative of principles of natural justice. - Binoy Bhusan Bardhan And Ors. vs. Champa Devi Sancheti - [2002] 1 GLR 291 (Gau)

CITATATION

(2003) 4 CAPJ 679 (Cir.)

CASE

Contents

Section 271(1)(c) - Can penalty be imposed when AO did not record finding that explanation offered by assessee was false and bana fide was not proved ? - Held, no "As per Explanation 1, if the Assessing Officer finds that the explanation offered by the assessee is false, then penalty can be levied on the amount which is found to be concealed. Therefore, the whole idea behind Explanation 1 is that the Assessing Officer has to first record reasons for arriving at a conclusion that there is a failure on the part of the assessee. Hence, after seeking an explanation if the Authority comes to a conclusion that it is false, then the assessing Officer can proceed to levy the penalty. Therefore. the Explanation casts a duty on the

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CITATATION

(1975) 100 ITR 698 (SC)

CASE

Raja Jagadambika Pratap Narain Singh Vs CBDT

Contents

Order in violation of natural justice = mutility Raja Jagadambika Pratap Narain Singh Vs CBDT (1975) 100 ITR 698 (SC)

CITATATION

111 ITR 507

CASE

Jaiprasad Singh Vs CIT(Assam)

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Jaiprasad Singh Vs CIT (Assam) Violation of natural justice = nulllity 111 ITR 507

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Natural Justice principles to be read in an enactment

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[2003] 87 ITD 323 (Delhi)(TM)

CASE

Finquick Finance (P.) Ltd. v. Dy. CIT(Delhi)(TM)

Contents

Assessment year 1997-98 - Whether where decissions cited before Tribunal are not considered at all, then it may be a case of mistake apparent from record, but when decissions relied upon have been considered but not to advantage of a party before tribunal, latter situation is not rectifiable under section 254(2) - Held, yes - [2003] 87 ITD 323 (Delhi)(TM) Finquick Finance (P.) Ltd. v. Dy. CIT(Delhi)(TM)

"we are of the opinion that the same are in the nature of order of appreciation on facts.If these observations are not considered as an order then the same can be either an obiter dicta or mere observations." [2003] 87 ITD 357 (Delhi)(TM)

CITATATION

[2003] 264 ITR 18

CASE

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Landmark Cases:- Principle of natural justice - Show cause notice should indicate the case to be met :- A show cause notice without indicating a tentative conclusion with reasons and materials therefore, does not serve its purpose. It was so held by the Supreme Court in the context of pre-emptive purchase of property under Chapter XX-C in Appropriate Authority of Income tax v. Jagdish Electricians India P. Ltd. [2003] 264 ITR 468. The necessary for such notice was pointed out in C.B.Gautam v. Union of India [1993] 199 ITR 530 (SC) and decisions of the HighCourt.[2003] 264 ITR 18

Hearing is mandatory :- A person who issues an order is bound to hear the party against whom

CITATATION

[2003] 184 CTR (Articles) 167

CASE

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Extent and scope of natural justice in tax matters - [2003] 184 CTR (Articles) 167

CITATATION
[2004] 187 CTR (Articles) 52

CASE

Contents
Applicability of principles of natural justice in income-tax proceedings - [2004] 187 CTR (Articles) 52

CITATATION
[2004] 267 ITR 345 (Cal)

CASE
West Bengal State Co-operative Bank Ltd. v. Joint CIT (

Contents
General principles-Principles of natural justice- Opportunity to be heard to be given before passing order for special audit- West Bengal State Co-operative Bank Ltd. v. Joint CIT [2004] 267 ITR 345 (Cal)

CITATATION
[2005] 2 GLR 463 (article)

CASE

Contents
Principles of -Test to be applied while considering the plea of violation of the principles of natural justice must be pragmatic and not academic.[2005] 2 GLR 463 (article)

CITATATION
(2004) 83 TTJ 889(Jd)

CASE
Banwarilal Bhartiya vs ITO(Jd)

Contents
Absence of proper notice- Notice under s. 143 (2) having not been sent at the address given by the assessee nor served upon him,best judgment assessment under s.144 is bad in law for violation of principles of natural justice.Banwarilal Bhartiya vs ITO(Jd),(2004) 83 TTJ 889(Jd).

CITATATION
(2005) 92 TTJ 665 (Pune)(TM)

CASE
V.P.Oswal v ACIT

Contents

Advance received back - In view of assessee's statement under s.132(4) on 17th/18th.Dec,1991, that the amount of Rs.1 lakh advanced by him to J on 11th July,1991, was returned to him within 3 months, the said amount was available with assessee for investment before the date of search and did not warrent addition.V.P.Oswal v ACIT.(2005) 92 TTJ 665 (Pune)(TM).

Opportunity of being heard - AO having made addition without following the rule of natural justice, it was a case warranting remand for fresh decisions instead of deleting the addition.V.P.Oswal v ACIT.(2005) 92 TTJ

CITATATION
(2005) 92 TTJ 151 (Jp)

CASE
Naveen Grah Nirman Sahakari Samiti v Competent Auth

Contents

Further, Shri N.M.Ranka, senior advocate, has drawn our attention to pp.13 and 14 of the Tribunal's order where a chart of events was given. He submitted that the said chart was never provided to the applicant and it was the violation of natural justice as per the ratio laid down in the cases of Rishab Textiles v CIT (2004) 186 CTR (Raj) 758 : (2003) 260 ITR 424 (Raj) where it was observed that the Tribunal was not justified / considering the material withiout giving an opportunity to the assessee. He further relied on the similar ratio laid down in the case of -
(1) CIT v S.S Gupta (2002) 172 CTR (Raj) 122 : (2002) 257 ITR 440 (Raj)

CITATATION
(2005) 3 Gauhati Law Reports 199

CASE
Nazma Khatun Barbhuiya vs State of Assam and Ors

Contents

Authority passing order mechanically without assigning any reason and also disregarding the courts directions -Violation of the principles of natural justice-Matter remanded back to the authority for a fresh decision by speaking order.Nazma Khatun Barbhuiya vs State of Assam and Ors,(2005) 3 Gauhati Law Reports 199.

CITATATION
(2006) 1 Gauhati Law Reports 221

CASE
Saukat Ali vs State of Assam

Contents

Tender- Grant of Contract-Natural justice-Settlement of Market-Settlement not made in favour of the petitioner despite offering highest bid- second highest bidder granted the settlement -Petitioner not provided any opportunity of hearing before rejection-Discrimination-Settlement made in favour of the private respondent held to be not legally not sustainable.Saukat Ali vs State of Assam,(2006) 1 Gauhati Law Reports 221.

CITATATION
(2005) 3 Gauhati Law Reports 95

CASE
IC-42417 F. Major T K Chatterjee vs Union of India

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The powers of judicial review is restricted to ensure fairness in the decision making process only.However ,in case where there is violation of procedural safeguard and the decision is based on evidence of two unduly privileged co-accused,the import thereof would be that it has been arrived at in complete negation of the principles of natural justice .In such a situation , the Court cannot but step in.IC-42417 F. Major T K Chatterjee vs Union of India,(2005) 3 Gauhati Law Reports 95.

CITATATION
[2004] 90 ITD 505 (Hyd)

CASE
SIDUR v Dy CIT

Contents
In support of the arguments with respect of applicability of section 13(2)(a) and other grounds and contentions taken, the learned counsel relied upon the following judgements :-

Citation	Proposition
CIT v. Nachimuthu Industrial Association [1982] 138 ITR 585 (Mad)	To constitute a loan there must be a "positive act" of lending and its acc-

CITATATION
(2007) 108 TTJ 373 (Asr) ITAT

CASE
Sadhu Ram & Sons vs. CIT & Anr. (Asr)

Contents
Show cause notice allowing one day for compliance- CIT having issued show cause notice to the assessee allowing only one day's time for submitting reply and also rejected the request for supply of documents referred to in the show cause notice, the impugned order passed by the CIT violated the principles of natural justice and same was liable to be quashed.-Sadhu Ram & Sons vs. CIT & Anr. (Asr) ITAT

CITATATION
[2007] 290 ITR 58

CASE

Contents
Transfer Case: Transfer of a case from one city to another can be made only after giving opportunity to the affected assessee and for reasons recorded before the order of transfer. These requirements are very often ignored or transfer is effected by ignoring the reasons advanced for resisting such transfer in Kumar Kumar and Brothers v. Union of India [2007] 290 ITR 310 (Cal). The opportunity was given before trnasfer in P.S. Housing Finance P. Ltd. v. Union of India [2007] 290 ITR 316 (Cal). The transfer was effected ignoring the reason advanced by the assessee without adequate material for the inference that the company's case needed transfer on the basis of a search of the non-executive director without any possible liability of the

CITATATION

[2007] 15 (4) ITPJ 134 (CESTAT- Bang.)

CASE

State Bank of India Industrial Finance Branch v. CCE (C

Contents

Opportunity of hearing not given- Dismissal of appeal without giving notice of hearing to assessee is violation of principle of natural justice.-State Bank of India Industrial Finance Branch v. CCE (CESTAT- Bang.) - [2007] 15 (4) ITPJ 134 (CESTAT- Bang.)