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TAX UPDATE

Key Takeaways from the ITAT Judgement on the Black Money Act, 2015: Jurisdiction, Applicability, and Procedural Adherence.

The recent judgement delivered by the Income Tax Appellate Tribunal (ITAT), Kolkata, in the case of JCIT vs. Vikash Marda*, addresses certain key aspects of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA). The case underscores the importance of jurisdiction, applicability, and procedural adherence when assessing foreign income or assets under the BMA.

KEY POINTS FROM THE CASE:

- BMA targets assets and income derived from unexplained or illicit sources, not those legitimately earned and disclosed in compliance with tax laws of other jurisdictions. It provides a safeguard against arbitrary classifications of foreign income and assets as ‘undisclosed’, ensuring fair application of the law.
- BMA became operational from April 1, 2016, applicable to income and assets from FY 2015-16 onwards. Assessments under the BMA cannot be applied retrospectively for periods prior to the Act’s enforcement.
- Penalties should not be levied for bona fide reporting errors, such as the failure to declare foreign assets in earlier years but rectified in subsequent years.

The ITAT underscores the need for fairness, ruling that the taxpayer’s actions stemmed from good faith and procedural misunderstanding rather than tax evasion. The judgement will serve as an important precedent, clarifying that the BMA cannot retroactively apply to periods before its enforcement and highlighting the need for proportionality in imposing penalties. By setting these standards, the judgement establishes a critical precedent for interpreting and implementing the BMA, ensuring that its enforcement aligns with principles of justice and reasonableness.

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*JCIT vs Vikash Marda BMA No. 4 to 6/KOL/2024