



## Delhi ITAT allows appeal of Assessee filed for rejecting the assessment proceeded by revenue after the passing of limitation.

Praveen Sawhney [TS-268-ITAT-2023(DEL)]

New Delhi, May 22<sup>nd</sup>, 2023

The Assessee made an appeal against the revenue on the ground that the Assessment conducted by the revenue time barred. The revenue pleaded that because they have made a reference to the Swiss Tax authority to furnish the information regarding the Swiss bank account of the Assessee, the time limit gets extended for one more year as per the provision of section 153B.

### **The Hon'ble ITAT of Delhi held that:**

The reference made by the revenue under the exchange of information between India and Switzerland DTAA before 01/04/2011 is not valid as the said notification clearly states that the exchange of information under this protocol will be valid for the information relating to any fiscal year starting on or after the 1<sup>st</sup> April, 2011.

The Hon'ble ITAT relied on the ruling of the case of Late Bhushan Lal Sawhney where it was held that;

*"Information prior to Apr 1, 2011 was not covered under Article 26 of India-Switzerland DTAA; Holds that the information called for by the department from Swiss Tax Authorities could not have been received by them for the period prior to Apr 2011 and thus, it would be a futile exercise to wait for such information, and that too, by an invalid reference"*

Hence, the Hon'ble Delhi ITAT allows the appeal of the Assessee, declaring the search conducted by the revenue as time barred and rejected revenue's plea.

