

Reassessment on a matter examined during original assessment is deemed as change of opinion; reassessment quashed.

Summary – The Delhi High Court (HC) has recently pronounced a decision in the case of Maruti Suzuki India Ltd., (the Assessee). During scrutiny assessment, the Assessing Officer had asked for details regarding bad debts written off, but had not made any disallowance for same. Subsequently the assessment was reopened and bad debts written off were disallowed on account of it being on capital account. The HC held that where the Assessing Officer had raised a specific query with regard to bad debts written off, it could be concluded that he had examined issue at time of making original assessment and had formed an opinion by not making any addition in respect thereof. Accordingly, reopening of assessment on the same issue would tantamount to nothing but a mere change of opinion which is not permissible and needs to be quashed.

Facts

- During original assessment under section 143(3), the Assessing Officer had raised a specific query with regard to bad debts/advances written off in response to which the assessee had filed details of the same. Thereafter, the Assessing Officer passed assessment order wherein no disallowance was made in respect of bad debts written off by the assessee.
- Subsequently, a notice under section 148 was issued for reopening of assessment under section 147, holding that the bad debts written off were disallowable on account of it being on the capital account. Thereafter, the Assessing Officer passed reassessment order.
- On writ, the assessee challenged the validity of reopening of assessment and order of reassessment, contending that when the Assessing Officer had asked for specific details relating to bad debts, he had applied his mind and formed an opinion that no disallowance could be made in that respect. Therefore, assessee claimed that it was a mere change of opinion and reopening was not permissible.

Held

- It is apparent that the only reason indicated therein for reopening the assessment was the issue of bad debts written off. The reasons given for reopening of the assessment was with regard to the said amount being liable to be disallowed on account of it being deemed to be on the capital account.

- The Assessing Officer had raised a specific query with regard to the issue of bad debts/advances written off at the assessment stage. Therefore, in the present case it cannot be said that the Assessing Officer did not examine the issue of bad debts/advances which had been written off by the petitioner/assessee.
- When a claim for deduction is not at all examined by the Assessing Officer, it could never be a case of change of opinion. However, where a claim or deduction been examined by the Assessing Officer it would amount to formation of an opinion, despite the fact that no addition had been made. After such an examination if the case is reopened it would be a case of change of opinion and the reassessment proceedings would be invalid.
- In the reasons recorded for reopening of the assessment, the Assessing Officer did not mention that the facts sought to be reexamined had escaped during assessment stage. If the Assessing Officer had felt that this point had been missed out in the assessment stage, he would have stated so.
- Accordingly, the HC held that the notice under section 148 and all proceedings pursuant thereto are invalid and need to be set aside.