

Reassessment can be made on the basis of info provided by assessee in Voluntary Disclosure Scheme

Summary – The High Court of Madras in a recent case of R. Selvaraj., (the Assessee) held that where tax was not paid in further compliance of VDIS declaration, information provided through VDIS Scheme would vest necessary jurisdiction with Assessing Officer to reopen assessment.

Facts

- The assessee filed declaration of income under VDIS Scheme, 1997 but failed to pay requisite tax under the Scheme.
- Subsequently, the Assessing Officer reopened the assessment on the ground that income that was liable to be taxed has escaped assessment.
- On appeal, the Commissioner (Appeals) held that statement made under VDIS Scheme was made for purpose of reopening the assessment by pointing out that assessee had not disclosed the fact about possession of those assets before declaration.
- On revenue's appeal, the Tribunal set aside the reassessment proceeding on ground that no independent reason was given by the Assessing Officer.
- On revenue's appeal:

Held

- It is no doubt true that under the circular issued by the Commissioner, the declaration made by the assessee was to be placed for the information of the Assessing Officer for the purpose initiation of proceedings under section 147. But that, by itself, would not lead to an automatic mechanical exercise of jurisdiction under section 147.
- The HC noted that given the fact that the assessee had disclosed the particulars of his income for the purpose of VDIS Scheme before the Commissioner who was the competent authority on the failure to comply with the terms of the VDIS Scheme, the declaration was forwarded to the respective Assessing Officer for further action. Thus, when the Assessing Officer has had the necessary materials indicating the concealment of income or income which had escaped assessment irrespective of the source from which it had come, it being the information and the material indication of escapement of income from assessment for the Assessing Officer to reopen the assessment, rightly the Assessing Officer assumed jurisdiction under section 147 and no exception could be taken to this by the assessee, contending that the Assessing Officer had no jurisdiction under section 147.
- The appellant submits that the declaration made was later on found by the assessee as not correct and hence, the claim made by the revenue that the income had escaped assessment without any independent inquiry, was not correct. There is no substance to accept this kind of reasoning, for,

when the assessee makes a declaration under the VDIS Scheme, the assessee was fully conscious of the details given under the Scheme. There was no compulsion on the assessee to opt for the scheme. Thus, having admitted to the particulars as true and not disclosed in the regular course, if the assessee had not taken this declaration for further compliance, the details given therein cannot be lost sight of as providing information for the purpose of reopening the assessment.

- In the circumstances, it was held that the information thus provided through VDIS Scheme certainly vests the necessary jurisdiction with the Assessing Officer under section 147 to reopen the assessment.