

No reassessment to deny higher rate of depreciation if facts were fully disclosed during original assessment

Summary – The High Court of Gujarat in a recent case of Garden Finance Ltd., (the Assessee) held that where during assessment proceedings, assessee on a specific query with respect to depreciation clearly mentioned that commercial vehicles purchased during year were given on lease, Assessing Officer was not justified to reopen assessment on ground that vehicles were not used for hiring and, thus, assessee was entitled for depreciation at normal rate of 20 per cent and not at higher rate of 40 per cent.

Facts

- The assessee company was a non-banking finance company engaged in the business of financing, money lending and financing of motor vehicles on lease.
- It filed its return of income claiming depreciation at the rate of 40 per cent on the commercial vehicles purchased by it from time to time. In the second half of the year, the assessee made fresh purchases of such commercial vehicles and supplied to a company on lease. On such purchases it claimed depreciation at the rate of 20 per cent being 50 per cent of available depreciation for full year.
- The Assessing Officer called upon the assessee for details of vehicles on which depreciation at the rate of 40 per cent was claimed. In the assessment, the Assessing Officer made no disallowance with respect to claim of depreciation.
- Thereafter, notice of reopening was issued beyond the period of four years from the end of the relevant assessment year on the ground that the assessee-company had used the motor vehicles for lease and not for hiring. It was, therefore, entitled for depreciation at the normal rate of 20 per cent on motor vehicles (commercial) and not at the higher rate of 40 per cent as claimed and allowed while finalizing the assessment.

Held

- Full facts were laid before the Assessing Officer in context of the assessee's claim for depreciation at the higher rate on commercial use for running on hire.
- The company had placed full facts before the Assessing Officer in the original assessment itself. In addition to filing the return, claiming depreciation at the rate the company thought was applicable, during the course of scrutiny assessment, the company made detailed submissions why despite commercial vehicles have been leased out, higher rate of depreciation was justified.
- This is therefore, not a case where income chargeable to tax can be stated to have escaped assessment for the reason of assessee failing to disclose truly and fully all material facts.

- In that view of the matter, the mandatory condition to enable the Assessing Officer to reopen the assessment beyond the period of four years not having been satisfied, impugned notice must be quashed.