

AO gets flak from HC for non-supply of reasons indicating escapement of income

Summary – The High Court of Rajasthan in a recent case of Amar Singh Shekhawat, (the Assessee) held that It is absolutely necessary that reasons recorded for formation of belief that income of assessee has escaped assessment, are supplied to assessee so that he may be in position to question legality of re-assessment proceedings initiated on all available grounds

Facts

- The assessee filed return and assessment was completed under section 143(2).
- After lapse of about 7 years, the assessee was served with a notice under section 147, for re-assessment of income.
- The assessee filed instant writ challenging legality of notice, for re-assessment on ground that the Assessing Officer had not disclosed reasons for initiating reassessment proceedings.
- The department submitted that they are ready to supply the reasons recorded for initiating the re-assessment proceedings to the petitioner.

Held

- It is settled law that the sufficiency and adequacy of the reasons which have led to formation of a belief by the Assessing Officer that the income has escaped the assessment cannot be examined by the Court but, the Court can certainly examine as to whether the reasons are relevant and have bearing on the matters in regard to which he is required to entertain the belief before he can issue notice for reassessment under section 147.
- The reasons, if any, recorded for formation of the belief by the Assessing Officer that income of the assessee has escaped assessment have neither been supplied to the assessee nor the same are placed on record. It is open for the assessee to establish that in fact there existed no belief or that the belief was not at all *bona fide* one or was based on vague, irrelevant and non-specific information and therefore, it is absolutely necessary that the reasons recorded for formation of the belief that the income of the assessee has escaped assessment, are supplied to the assessee so that he may be in position to question the legality of the re-assessment proceedings initiated on all available grounds.
- Accordingly, the writ petition is disposed of with the direction to the Assessing Officer to furnish the reasons recorded for formation of the belief that the income of the assessee has escaped assessment.