

Non-disclosure of plot details of housing project leads to sec. 80-IB disallowance in reassessment

Summary – The Supreme Court of India in a recent case of Girilal & Co., (the Assessee) held that In absence of proper disclosure of information about size of plot on which housing project was constructed, revenue was justified in reopening assessment to deny deduction allowed under section 80-IB

Facts

- The assessee, a partnership firm, was engaged in the business of construction of buildings and development of real estate. Deduction under section 80-IB(10) was allowed in assessment.
- In scrutiny, it was found that assessee had not correctly disclosed the actual size of the said plot and, hence, assessee was not entitled for deduction. It was also noted that the information regarding the actual size of the plot used for construction was not available in return of income. It was available only in the valuation report submitted by the assessee; that too on queries made on value of land during assessment and, hence, the case was covered under Explanation 2(c)(iv) of section 147.
- The High Court dismissed the writ petition of the assessee-firm.
- On appeal to the Supreme Court:

Held

- The communication was addressed by the appellant to the Assessing Officer in during assessment, in which, there is a mention about the land in question. After going through the same, the aforesaid submission of the appellant is to be rejected. In the said communication only the value of the land is stated and in support, a certificate from the registered Architect and Engineer is filed.
- It is clear from the above that this information was supplied as there was some query about the value of the land. Obviously, while going to this document the Assessing Officer would examine the value of the land. However, the reason for issuing notice under section 148 was that the appellant had not correctly disclosed the actual assets of the plot and hence, it was not entitled for deduction under section 80-IB(10). The Income-tax Authority itself has mentioned in the notice under section 148 that such information was available only in the valuation report. Giving the information in this manner shall be of no help to the appellant as the Assessing Officer was not expected to go through the said information available in the valuation report for the purpose of ascertaining the actual construction of the plot.
- On the facts of this case, the revenue was right in reopening the assessment and the High Court has rightly dismissed the writ petition of the appellant challenging the validity of the notice under section 148 as there was no true disclosure of the exact size of the plot when the new construction

commenced it *prima facie* cannot be said that there were no reasons to believe. The information was in the annexures and consequently the Explanation 2(c)(iv) of section 147 will apply.

- Thus, there was no merit in this appeal.