

Reassessment by relying on info. received from investigation wing without conducting inquiry was unjustified

Summary – The High Court of Delhi in a recent case of RMG Polyvinyl (I) Ltd., (the Assessee) held that where information was received from investigation wing that assessee was beneficiary of accommodation entries but no further inquiry was undertaken by Assessing Officer, said information could not be said to be tangible material per se and, thus, reassessment on said basis was not justified

Facts

- The assessee filed its return for the relevant year declaring an income of Rs. 4,38,958.
- The Assessing Officer issued notice under section 147 on the ground that information was received from investigation wing that assessee-company was a beneficiary of accommodation entries received from certain established entry operators identified by the investigation wing during the period relevant to assessment year 2004-05. During investigation, it was found that the entry operators was engaged in the business of money laundering for the beneficiaries. The accommodation entry provider had given accommodation entries in the grab of share application money, expenses gift, purchase of shares etc. Notice was issued by the Assessing Officer to reopen assessment on aforesaid basis that income chargeable to tax to extent of accommodation entry had escaped assessment.
- On appeal to the High Court:

Held

- There can be no manner of doubt that in the instant case, there was a failure of application of mind by the Assessing Officer to the facts. In fact he proceeded on two wrong premises - one, regarding alleged non-filing of the return and the other, regarding the extent of the so-called accommodation entries.
- In the present case, the Court is unable to discern the link between the tangible material and the formation of the reasons to believe that income had escaped assessment. The information received from the Investigation Wing cannot be said to be tangible material *per se* without a further inquiry being undertaken by the Assessing Officer. In the present case, the Assessing Officer deprived himself of that opportunity by proceeding on the erroneous premises that assessee had not filed a return when in fact it had.
- The Court is satisfied that no error was committed by the Tribunal in holding that reopening of the assessment under section 147 was bad in law.