

## **No reassessment after 4 years when assessee had already disclosed details of investment & exp. at assessment stage**

**Summary – The High Court of Gujarat in a recent case of Kumari Aditi Janmejy Vyas, (the Assessee) held that where Assessing Officer sought to reopen assessment on ground that even though assessee had earned certain exempt income under section 10(34) during relevant year, yet no disallowance had been made under section 14A, in view of fact that assessee had disclosed all material facts relating to tax free investment and interest expenses in its books of account at time of assessment, impugned reassessment proceedings deserved to be quashed**

### **Facts**

- The assessee filed its return declaring certain taxable income. The Assessing Officer completed assessment under section 143(3). After expiry of four years from end of relevant year, Assessing Officer sought to reopen the assessment on ground that even though assessee had earned certain exempt income under section 10(34) during relevant year, yet no disallowance had been made under section 14A, read with rule 8D of the Income-tax Rules, 1962.
- The assessee filed instant petition challenging the validity of reassessment proceedings.

### **Held**

- It is required to be noted that in the present case, the assessment for assessment year 2009-10 is sought to be reopened beyond the period of four years. Therefore, unless and until the condition precedent to assume jurisdiction to reopen the assessment beyond the period of four years, as per the provisions of section 147 are satisfied, it is not open for the Assessing Officer to reopen the assessment. As per the proviso to section 147, unless and until it is found that there was any failure on the part of the assessee in disclosing true and correct facts necessary for the assessment, it is not open for the Assessing Officer to assume jurisdiction to reopen the assessment beyond the period of four years.
- In the present case, at the time of original assessment, which was a scrutiny assessment under section 143(3), the assessee disclosed interest expenses of Rs. 21,59,130 in the profit and loss account and investment of Rs. 7.14 crores in the balance sheet. The assessee also disclosed in the return of income, the exempt income of Rs. 7,31,122. The assessee also furnished details of investment at the original assessment stage. Despite the above, the Assessing Officer, while framing scrutiny assessment under section 143(3) did not make any disallowances under section 14A.
- Under the circumstances, it cannot be said that there was any failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. Thus, the assumption of

jurisdiction to reopen the assessment beyond the period of four years is without jurisdiction and contrary to the provisions of section 147. Under the circumstances, on the aforesaid ground alone, the impugned notice and reopening of assessment deserves to be quashed and set aside.