

No reassessment after 4 years just because deduction u/s 80-IB was wrongly claimed by assessee

Summary – The High Court of Gujarat in a recent case of Dhirendra Hansraj Singh, (the Assessee) held that where after expiry of four years from end of relevant year, Assessing Officer sought to reopen assessment on ground that deduction under section 80-IB(11A) was wrongly claimed as assessee was engaged in manufacturing and processing of fruit juices and did not derive profits from processing, preservation and packaging of fruits, since there was no failure on part of assessee to disclose fully and truly any material facts which were necessary for assessment, in view of proviso to section 147, impugned reassessment proceedings deserved to be set aside

Facts

- For relevant years, the assessee filed his return showing income at Rs. Nil, after claiming deduction under Chapter VIIA. The assessment was completed under section 143(3).
- After expiry of four years from end of relevant year, the Assessing Officer sought to reopen the assessment on ground that deduction under section 80-IB(11A) was wrongly claimed as assessee was engaged in manufacturing and processing of fruit juices and did not derive profits from processing and packaging of fruits.
- The assessee's objections to initiation of reassessment proceedings were rejected.
- On writ:

Held

- Where an assessment under sub-section (3) of section 143 for the relevant assessment year has been made, no action could be taken under this section after expiry of four years from the end of relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year for reason of the failure on the part of the assessee to make a return under section 139 or in connection with a notice issued under sub-section (1) of section 142, or section 148, or to disclose fully and truly all material facts necessary for reassessment for that assessment year.
- Assessment can be reopened after four years from the end of relevant assessment year only where any income chargeable to tax has escaped assessment for such assessment year by reason of (a) failure on the part of assessee to make a return under section 139; or (b) failure to file return in response to a notice issued under sub-section (1) of section 142 or section 148 or (c) failure to disclose fully and truly all material facts necessary for assessment for that assessment year. It transpires from the record that the assessee had filed return of income under section 139(1) on 7-10-2010. It is a fact that there is no failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment, as the assessee had already tabulated necessary details/particulars as were required by the Assessing Officer at the time of original assessment, and

therefore, there was no failure on the part of the assessee to disclose fully and truly any material facts which were necessary for assessment.

- Indisputably, the impugned notice issued by the Assessing Officer itself is beyond the period of four years from the end of relevant assessment year and did not comply with the requirements of proviso to section 147 the Assessing Officer had no jurisdiction to reopen the assessment proceedings which were concluded on the basis of assessment under section 143(3) and therefore, on this short count alone, the impugned notice is liable to be quashed and set-aside.
- Resultantly, for the foregoing reasons, re-assessment proceedings being illegal and bad in law, need to be dropped.