

HC quashes reassessment done without considering assessee's explanation about cash deposit

Summary – The High Court of Gujarat in a recent case of Hemant Manaharlal Shah (HUF), (the Assessee) held that where Assessing Officer issued notice seeking to reopen assessment on ground that there was a big mismatch between returned income and cash transactions in assessee's bank accounts which remained unexplained, in view of fact that assessee had received amount in cash for sale of his Mango crop which was deposited in bank account, impugned reassessment proceedings deserved to be set aside

Facts

- During relevant year, assessee earned agricultural income which was exempt from tax. The assessee filed its return declaring certain other taxable income. The assessment was completed without taking assessee's return in scrutiny.
- Subsequently, the Assessing Officer issued notice seeking to reopen the assessment on ground that these was a big mismatch between returned income and cash transactions in assessee's bank accounts which remained unexplained.
- The assessee's objections to initiation of reassessment proceedings were rejected.
- On writ:

Held

- In the present case, the return filed by the assessee was accepted without scrutiny. The Assessing Officer therefore not having formed any opinion on the proposed addition, the principle of change of opinion would not apply. Nevertheless, even in such a case, the Assessing Officer must have valid reason to believe that income chargeable to tax has escaped assessment.
- The Assessing Officer formed a belief that income chargeable to tax has escaped assessment, on the ground that noticing a big mismatch between the returned income and cash transactions in the assessee's bank accounts, queries were raised, which remained unreplied. This is contrary to the facts on record. As noted, in reply to the notice dated 21-02-2017 issued by the Assessing Officer, the assessee had given a detailed reply on 06-03-2017. He had pointed out that he had received amount in cash for sale of his Mango crop. which was deposited in the bank account. Part of it was withdrawn and redeposited. That is how the total cash deposit in his account reached Rs. 30.75 lakhs during the relevant period.
- Along with his reply, the assessee had also furnished a copy of the agreement between the assessee and the purchaser of the Mango crop. The bank statement was also produced. If the Assessing Officer was not still satisfied, it was always open for him to call for further details or even for valid reason to discard the assessee's reply and reopen the assessment recording the reasons. However,

under no circumstances, Assessing Officer could have simply ignored the reply and proceeded to form a belief that income chargeable to tax had escaped assessment on the premise that his queries had remained unreplied.

- In plain terms, his reasons proceeded on wrong facts. His satisfaction was thus, tainted by wrong facts. His attempt to cover the issue through the order disposing of objections must fail. His assertion that such large amount of agricultural income required verification, would amount to improving the reasons and also seeking to carry out fishing inquiry through the process of reopening of the assessment.
- In the result, impugned notice is quashed.