

No disallowance of loss if it was allowed after considering assessee's explanation during original assessment

Summary – The Ahmedabad ITAT in a recent case of Atul Ltd., (the Assessee) held that No disallowance of loss if it was allowed after considering assessee's explanation during original assessment

Facts

- The assessee, engaged in manufacturing pharmaceuticals, chemicals, paints etc. claimed deduction on loss on sale of stores. Assessment was completed under section 143(3) allowing the claim.
- The Assessing Officer sought to reopen the assessment on the ground that loss on sale of stores was capital expenditure and hence not allowable.
- The Commissioner (Appeals) upheld the reassessment order.

Held

- Having noticed the fact that the Assessing Officer had raised specific questions *vide* requisite notice dated 15-10-2010 with respect to allowability on 'loss on sale of stores' and that the assessee had explained the same - without any follow-up question by the Assessing Officer in this regard, the Assessing Officer had indeed formed an opinion about the deductability of loss on sale of stores. It is also not in dispute that no new material has come to the light on account of which the present assessment proceedings were reopened. On these facts, the reopening was clearly on account of change of opinion by the Assessing Officer - something which is impermissible under the scheme of the act and in the light of binding judicial precedent. Thus, the impugned reassessment proceedings were to be quashed.