

Reassessment justified as assessee didn't file relevant details related to huge advance made to one party

Summary – The High Court of Madras in a recent case of Smt. A. Sridevi, (the Assessee) held that where reassessment proceedings were initiated against assessee on ground that assessee had advanced several crores of rupees to a party but source of such amount was not explained, since assessee had not filed balance sheet or statement of affairs related to such advance, impugned reassessment proceedings were justified

Facts

- For the assessment year 2008-09, the assessee filed her return of income declaring certain taxable income. The return was processed under section 143(1). Subsequently, the case was reopened by issuing a notice under section 148. The Assessing Officer completed the reassessment under section 143(3), read with section 147, by making certain addition in respect of unexplained cash credit.
- Later on, the respondent once again reopened the assessment by issuing notice under section 148. The reason furnished for reopening of assessment was that assessee had given certain advance to one 'SN' for purchase of property and source of amount so paid was not explained.
- The assessee raised an objection that there had been full and true disclosure of all material facts and, therefore, reopening of the assessment for the second time beyond four years was barred by limitation. However, the Assessing Officer set aside objection raised by the assessee.
- On writ:

Held

- The sheet anchor of the arguments of the assessee was that the assessee was called upon to explain the sources and nature of cash deposits and the assessee had already filed the necessary details during first reassessment proceedings including the cash flow, which reflected the payments made to SN as advance. Therefore, it is submitted that the materials were available even at the time, when the reassessment proceedings took place and the present reopening is a clear case of change of opinion.
- From the perusal of the first reassessment order it is found that the Assessing Officer has recorded that during the course of hearing, the assessee was asked to file details of sources and nature of cash deposits made during the previous year in savings bank account maintained with 'A' bank. Further, the assessee was asked to file copies of bank accounts and other evidences in support of her claim.
- The Assessing Officer has recorded that the assessee filed details of receipts and payments in respect of the previous year and stated that there were sufficient cash withdrawals prior to the cash deposit. One fact, which is visibly clear, from what has been recorded in the assessment order, is that the details called for pertaining to the savings bank account maintained in 'A' bank, and details,

which were furnished by the assessee also pertain to the said amount. Therefore, merely because a cash flow statement was appended to the letter of the assessee cannot be taken to be establish that the assessee has made full and true disclosure of the advance paid to SN. One more factor which has weighted is that even in the first reassessment proceedings, there was a shortfall of certain amount. Therefore, the assessee did not fully and truly disclosed all materials necessary for its assessment.

- The assessee further argued that the Assessing Officer has not recorded any reasons for reopening and he has not formed any opinion nor recorded satisfaction that there has been failure to disclose material.
- The reasons for reopening is with regards to the source for the advance made to SN. Reading of the reasons, clearly shows that the Assessing Officer intended to verify the transactions as it was not disclosed by the assessee. Thus, the omission on the part of the assessee has been pointed out and the reason why the Assessing Officer wants to verify is also clear from reading the reasons for reopening. Therefore, one does not agree with the submissions of the assessee that no opinion was formed by the Assessing Officer for being satisfied that there is a case for reopening.
- Furthermore, the assessee has not filed the balance sheet or statement of affairs as noted by the Assessing Officer and in the return of income, the assessee has filed only statement showing computation of income consisting of salary income and interest income from other sources. Even when the reassessment proceedings were commenced by issuance of notice, the assessee did not file a fresh return of income, but informed the Assessing Officer to treat the return of income filed, as return in response to the notice under section 147. Thus, whatever was placed before the Assessing Office cannot be taken to be full and true disclosure pertaining to the transactions with SN.
- Thus, the reasons assigned for reopening of assessment is just and proper and no opinion was formed during the assessment proceedings, for it to be termed as a 'change of opinion', more so, when the assessee has failed to fully and truly disclose all the materials necessary for its assessment. Thus, the reasons assigned by the learned Writ Court is just and proper and does not call for any interference.