

## Reassessment justified on info. received from investigation wing that assessee raised false claim of LTCG exemption

**Summary –** The High Court of Gujarat in a recent case of Purviben Snehalbhai Panchhigar., (the Assessee) held that where assessee filed his return claiming capital gain arising from sale of shares of company 'T' as exempt under section 10(38), in view of fact that said return was accepted under section 143(1) without scrutiny, AO was justified in initiating reassessment proceedings on basis of information received from Investigation Wing that company 'T' was a shell company and shares of said company were basically used for providing bogus claim of long-term or short-term capital gain

### Facts

- For relevant year, the assessee filed its return which was accepted without scrutiny under section 143(1). In the said return, the assessee had claimed capital gain arising from sale of shares of company 'T' as exempt under section 10(38).
- Subsequently, the Assessing Officer received information from Investigation wing that company 'T' was a shell company and shares of said company were basically used for providing bogus claim of long-term or short-term capital gain.
- The Assessing Officer thus taking a view that assessee had raised a false claim for exemption of capital gain, initiated reassessment proceedings.
- The objections raised by the assessee to initiation of reassessment proceedings were rejected.
- On writ:

### Held

- The return filed by the assessee was accepted without scrutiny. Since there was no scrutiny assessment, the Assessing Officer had no occasion to form any opinion on any of the issue arising out of the return filed by assessee. The concept of change of opinion would therefore have no application. It is equally well settled that at the stage of reopening of the assessment, the Court would not minutely examine the possible additions which Assessing Officer wishes to make. The scrutiny at that stage would be limited to examine whether the Assessing Officer had formed a valid belief on the basis of the material available with him that income chargeable to tax had escaped assessment.
- In the instant case the Assessing Officer has heard the material on record which would *prima facie* suggest that the assessee had sold number of shares of a company which was found to be indulging in providing bogus claim of long-term and short-term capital gain. The company was *prima facie* found to be a shell company. The assessee had claimed exemption of long-term capital gain of Rs. 1.33 crores by way of sale of share of such company.

- In the result, the petition is dismissed.