

Cash available with assessee not disclosed in ITR does not automatically call for reassessment

Summary – The High Court of Bombay in a recent case of Rajbhushan Omprakash Dixit, (the Assessee) held that Cash available with assessee not disclosed in ITR does not automatically call for reassessment

Facts

- The assessee's company of which he was an independent director was subjected to search under section 132(1). Subsequent to the search, the assessee filed return declaring taxable income of Rs. 7.20 lakhs and the same was assessed at returned income.
- After expiry of four years from end of relevant year, Assessing Officer initiated reassessment proceedings on ground that seized documents disclosed that assessee had cash in hand of Rs. 20 lakhs which was not forming part of assessee's return and, thus, escaped assessment.
- The assessee's objection to initiation of reassessment proceedings was rejected.
- On writ:

Held

- In the present case the revenue sought to rely on the *Explanation 1* to section 147 to contend that this would be a case of lack of true and full disclosure on the part of the assessee.
- As per said *Explanation*, production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the first proviso to section 147.
- The present case is not where the assessee is seeking to rely on a disclosure which the revenue can seek to bring within the fold of the said *Explanation*. In this case the department already had collected certain documents and materials which were before the Assessing Officer at the time of framing assessment. If the Assessing Officer did not, for some reason, advert to such material or did not utilize the same, he surely cannot allege that the assessee had failed to disclose truly and fully all material facts.
- In view of the above discussion, the impugned notice is set aside. The petition is allowed.