

Reassessment not necessary since sum was duly returned due to non-materialisation of deal to develop IT Park

Summary – The High Court of Delhi in a recent case of Best Cybercity (India) (P.) Ltd., (the Assessee) held that Reassessment not necessary since sum was duly returned due to non-materialisation of deal to develop IT Park

Facts

- The assessee-company was engaged in real estate business and planned a joint venture with another company for development of an IT park and received a sum of Rs. 40 crores for same. Since the project did not materialize, in subsequent assessment year the full amount was returned. The assessee filed its return of income which after scrutiny by the Assessing Officer was accepted on returned income.
- After more than four years, the Assessing Officer issued a reopening notice under section 148 on grounds that Rs. 40 crores transferred to the assessee was by a company which was known for giving and taking accommodating entries. The Assessing Officer recorded that he had reason to believe that Rs. 40 crores received by the assessee had escaped income and concluded that the assessee had received unexplained investment amounting Rs. 40 crores.
- On the assessee's appeal to the High Court:

Held

- The HC stated that it is seen in the present case all the material that was necessary for the Assessing Officer to form an opinion regarding the transaction involving the assessee and other party was already available with the Assessing Officer and there was no fresh tangible material on the basis of which the Assessing Officer could have formed an opinion about any taxable having escaped assessment during the assessment year in question. The Court is, therefore, satisfied that the jurisdictional requirement of the first proviso to section 147 proviso has not been satisfied in the present case.
- For the aforementioned reasons, this Court quashes the notice issued to the assessee under section 147 read with section 148.