

Bombay HC held that Vodafone Idea Ltd did not escaped the assessment on account of failure to disclose all material facts necessary for computation of income

FACT OF THE CASE

1. In A.Y. 2013-2014, petitioner filed return of income on 30th November 2013 declaring total income at loss of Rs.4,60,12,34,048/- under normal provisions and Rs.273 crores under Section 115JB of the Act. Revised return of income was also filed declaring income as shown in original return of income. The assessment was completed on 30th December 2016 under Section 143(3) of the Act determining total income at Rs.24,76,63,28,847/- under normal provisions and Rs.13,96,21,60,821/- under Section 115Jb of the Act.
2. The petitioner received notice dated 2nd August 2019 under Section 148 of the Act saying that there are reasons to believe that petitioner's income chargeable to tax for A.Y.-2013-2014 has escaped assessment within the meaning of Section 147 of the Act.
3. Since the notice has been issued after the expiry of 4 years from the relevant assessment year and petitioner has been assessed under Section 143(3) of the Act, the proviso to Section 147 as it was then previously would apply.

DECISION OF THE CASE

1. The Assessing Officer notes that the assessee had made submissions on these items earlier but still states that income chargeable to tax has escaped because in his opinion certain amounts are required to be added back in profit and loss account and certain amounts should not have been disallowed. Where on consideration of material on record, one view is conclusively taken by the Assessing Officer, it would not be open to reopen the assessment based on the very same material with a view to take another view.
2. In the view of this Court, this is not a case where the assessment is sought to be reopened on the reasonable belief that income had escaped assessment on account of failure of the assessee to disclose truly and fully all material facts that were necessary for computation of income but this is a case wherein the assessment is sought to be reopened on account of change of opinion of the Assessing Officer.

After considering the Facts and circumstances the Bombay HC quashed and set aside the notice dated 2nd August 2019 and the order on objections dated 5th December 2019.