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(2003) 05 RAJ CK 0068

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4787 of 2002 26 May 2003

Gehna APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 26-05-2003

Acts Referred:
Income Tax Act, 1961 — Section 147, 148

Citation : (2003) 132 TAXMAN 592

Hon'ble Judges : Ashok Parihar, J

Bench : Division Bench

Advocate : N.M. Rankaand Rajkumar Yadav, for the Petitioner, for the Appellant;

Judgement

Looking to the short controversy involved in the present matter, the writ petition is disposed of without issuing notices to the respondents.

2. For an escaped assessment u/s 147 of the Income Tax Act, 1961, notice u/s 148 dated 17-6-2002 has been issued to the petitioner for the assessment year 1999-2000 which is under challenge in the present writ petition.

3. The impugned notice has been challenged mainly on the ground that no reason whatsoever, has been given by the assessing authority in the impugned notice. It has further been submitted that in spite of representation been made and reminders issued, the assessing authority has not supplied any reason, which is mandatory in nature. The Supreme Court in the case of GKN Driveshafts (India) Ltd. Vs. Income Tax Officer and Others, has observed that where notice u/s 148 of the Income Tax Act is issued, the proper course of action for the noticee is to file the return and if he so desires, to seek reasons for issuing the notices. The assessing officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the assessing officer is bound to dispose of the same by passing a speaking order.

4. In the present matter, since the petitioner has already sought reasons from

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the concerning authorities, it is expected from them to supply the reasons for issuing notice u/s 148 of the Income Tax Act to the petitioner within a reasonable time and if any objections are submitted, thereafter it is the duty of the assessing officer to decide the same. Since in the present matter the above procedure has not been followed by the assessing officer, the respondents are now directed to supply reasons for issuing notice u/s 148 of the Income Tax Act to the petitioner within 30 days from the date of receipt of certified copy of this order. The petitioner shall be at liberty to submit his objections before the assessing officer and the assessing officer, after hearing the petitioner, may decide the objections in accordance with law and proceed further in the matter. The petitioner shall also be at liberty to seek further remedy before the appropriate forum, if still aggrieved, in accordance with law.

5. The writ petition stands disposed of accordingly.

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