(2003) 05 RAJ CK 0074

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4787 of 2002

Gehna APPELLANT

Vs

Union of India (UOI) and Another RESPONDENT

Date of Decision : 26-05-2003

Acts Referred:
Income Tax Act, 1961 — Section 148

Citation : (2003) 184 CTR 446 : (2004) 267 ITR 782

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : N.M. Ranka and Rajkumar Yadav, for the Appellant;

Judgement

ASHOK PARIHAR, J.—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 IT Act, 1961, notice u/s 148, dt, 17th June, 2002, has been issued to the petitioner for the asst. yr. 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 IT 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 AO 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 AO 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 the concerning authorities, it is expected from them to supply the reasons for

issuing notice u/s 148 of the IT Act to the petitioner within a reasonable time and if any objections are submitted, thereafter it is the duty of the AO to decide the same. Since in the present matter the above procedure has not been followed by the AO, the respondents are now directed to supply reasons for issuing notice u/s 148 of the IT 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 AO and the AO, 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. The writ petition stands disposed of accordingly.