(1991) 04 AHC CK 0095

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 353 of 1991

Jawahar Lal Gupta APPELLANT

Vs

Income Tax Officer RESPONDENT

Date of Decision : 18-04-1991

Acts Referred:

Constitution of India, 1950 — Article 226
Income Tax Act, 1961 — Section 147, 148

Citation : (1992) 196 ITR 147

Hon'ble Judges : R.K. Gulati, J;K.P. Singh, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The petitioner, Jawahar Lal Gupta, has sought to challenge the validity of reassessment proceedings taken in pursuance of the notice u/s 148 of the Income Tax Act, a copy of which is annexure I to the writ petition. By the notice u/s 148 of the Act, the assessment of the petitioner for the assessment year 1989-90 was reopened. The challenge to the aforesaid notice is based on the allegation that, despite the petitioner''s demand in writing for supply of a copy of the reasons recorded by the Income Tax Officer on the basis of which the reassessment was reopened, he has not been apprised of the reasons nor has he been furnished with a copy thereof. According to the petitioner, in the initial return filed by him for the assessment year in question, he had disclosed all the material facts and the proceedings initiated in pursuance of the notice u/s 148 of the Act are illegal and without jurisdiction, inasmuch as the reassessment proceedings do not conform to the requirements of Section 147 of the Act.

2. In the counter-affidavit filed on behalf of the sole respondent, namely, the Income Tax Officer, Ward-I(2), Agra, the allegations made by the petitioner have been refuted. The case set up by the respondent is that the petitioner had never been refused access to the reasons on which the notice u/s 148 is based nor was he ever refused a copy thereof. On the other hand, by a letter dated February

18, 1991, the petitioner was informed that he could make inspection of the reasons recorded for issuance of the notice u/s 148 after he had filed the return in compliance with the notice u/s 148 already served on him.

3. It is now not in dispute that the petitioner has submitted his return in pursuance of the notice u/s 148. In this view of the matter, we dispose of this writ petition finally with the direction that, before the Income Tax Officer proceeds further with the assessment in pursuance of the notice u/s 148, he shall confront the assessee with the substance of the reasons recorded by him or supply him a certified copy of the reasons. It is also made clear that, after the petitioner is confronted with the reasons if he still feels aggrieved, it shall be open to him to challenge the notice u/s 148 and the proceedings for reassessment on such grounds and before such forum as may be available to him under the law.