(1993) 03 AHC CK 0018

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. Nil of 1993

Man Mohan Singh APPELLANT

Vs

Assistant Commissioner of Income Tax RESPONDENT

Date of Decision : 24-03-1993

Acts Referred:
Constitution of India, 1950 — Article 226
Income Tax Act, 1961 — Section 148

Citation : (1993) 115 CTR 290 : (1993) 203 ITR 74

Hon'ble Judges : Om Prakash, J;A.N. Gupta, J

Bench : Division Bench

Advocate : Vikram Gulati, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

1. Notices u/s 148 have been issued against the petitioner. Thereafter, the petitioner made an application dated December 23, 1991 (annexure "7" to the writ petition), stating that the return filed u/s 139 be treated to have been filed pursuant to notices issued u/s 148. It is urged by counsel for the petitioner that, after the aforesaid application has been made, the petitioner has become entitled to get a copy of the reasons, in view of the decision in the case of K.M. Bansal (Deceased by Lrs.) Vs. Commissioner of Income Tax and Another, in which this court has taken the view that, when a return was filed pursuant to a notice issued u/s 148 by the petitioners, then the Assessing Officer shall communicate the reasons recorded by him u/s 148 to the assessee, subject, of course, to the necessity of protecting his source/informant, if he thinks such protection is necessary in any given case.

2. Following the said decision, we dispose of the writ petition finally with the observation that, if the petitioner has already made an application for obtaining a copy of the reasons recorded by the assessing authority to proceed u/s 148 of the Income Tax Act, 1961, then the assessing authority shall communicate the

reasons recorded by him u/s 148 to the petitioner within one week from the date a certified copy of this order is produced before him by the petitioner along with a copy of the application said to have been made in this behalf to the respondent, subject, of course, to the necessity of protecting his source/ informant, if he thinks that protection is necessary in this case and when the reasons are communicated by the assessing authority, the petitioner may file reply before him within one week from the date of communication of the reasons. Till then, the proceedings pursuant to the impugned notices dated November 19, 1991 (annexure "6" to the petition), relating to the assessment years 1988-89 and 1989-90, will not be completed.

3. A copy of this order may be given within 24 hours on payment.

