(1992) 02 KL CK 0033

In the High Court Of Kerala

Case No : O.P. No. 2166 of 1992-G

S.S.V. Kumar APPELLANT

Vs

Commissioner of Income Tax and Another RESPONDENT

Date of Decision : 19-02-1992

Acts Referred:

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

Citation : (1992) 104 CTR 9 : (1993) 199 ITR 416

Hon'ble Judges : K.A. Nayar, J

Bench : Single Bench

Advocate : Sunil Jose, for the Appellant; P.K. Ravindranatha Menon, Senior Advocate and N.R.K. Nair, for the Respondent

Judgement

K.A. Nayar, J.—The petitioner was assessed to Income Tax for the year 1988-89. Exhibit P-5 is the assessment order. Since the Income Tax Officer came to the conclusion that there was escapement of income, notice was issued u/s 148 of the Act. Exhibit P-13 is the notice. The petitioner challenges the said notice in this writ petition. When exhibit P-13 was received, the petitioner wanted reasons, under which the notice was issued, to be given. I do not think that the reason need be given at this stage. It is not necessary to specify the item of income that had escaped from assessment or indicate the source of income that had escaped from assessment. It is enough if the attention of the assessee is drawn at the time of the reassessment. At this stage, it is not necessary on the part of the Income Tax Officer to specify the item that had escaped from assessment. The contention now before me is that the Income Tax Officer is acting only on a change of opinion. All this can be raised by the petitioner before the Income Tax Officer. The condition precedent for exercising jurisdiction u/s 148 has been complied with by the Income Tax Officer, but sanction u/s 151 has been obtained for issue of notice. In view of this, I find no ground to entertain this writ petition at this stage.

2. Counsel for the petitioner submitted that, by exhibit P-17, the petitioner has been directed to appear on February 20, 1992, and since this writ petition has been filed and it came up for admission only today, it would be inconvenient for the petitioner to appear tomorrow as the petitioner is already out of station. If that be so, it is for the petitioner to apply for time before the second respondent. If time is asked for, I have no reason to believe that the same would be rejected.

3. I find no merit in this original petition and the same is hereby dismissed.

