(1993) 02 KL CK 0026

In the High Court Of Kerala

Case No : W.A. No. 668 of 1992

S.S.V. Kumar — APPELLANT

Vs

Commissioner of Income Tax and Another — RESPONDENT

Date of Decision : 03-02-1993

Acts Referred:

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

Citation : (1993) 111 CTR 148 : (1993) 203 ITR 374

Hon'ble Judges : Varghese Kalliath, J;P.K. Shamsuddin, J

Bench : Division Bench

Advocate : P.C. Sasidharan, for the Appellant; P.K.R. Menon and N.R.K. Nair, for the Respondent

Judgement

Varghese Kalliath, J.—This is an appeal against the judgment of a learned single judge of this court in O. P. No. 2166 of 1992 S.S.V. Kumar Vs. Commissioner of Income Tax and Another,). The original petition was filed challenging exhibits P-13 and P-17. Exhibit P-17 is a notice issued u/s 148 of the Income Tax Act, 1961. In the notice, the Income Tax Officer wanted certain points to be clarified in regard to the return submitted by the appellant herein for the year 1988-89. Such a notice cannot be challenged in the proceedings. Exhibit P-13 is the notice for assessment of escaped income. That is also a notice to show cause why the Income Tax Officer should not assess certain income which had escaped assessment. It is in the stage of notice to show cause why assessment should not be made. This also cannot be the subject matter of challenge under Article 226 of the Constitution. The points now raised in the original petition and the writ appeal regarding non-liability for additional tax can be raised before the Income Tax Officer in response to exhibit P-13 notice. With this observation, this writ appeal is dismissed.