

GKN DRIVESHAFTS (INDIA) LTD.

A

v.

INCOME TAX OFFICER AND ORS.

NOVEMBER 25, 2002

[SYED SHAH MOHAMMED QUADRI AND ARIJIT PASAYAT, JJ.]

B

*Income Tax Act, 1961:*

*Ss. 148 and 143(2)—Issuance of notices under—Challenging validity of—Procedure—Writ petition filed by assessee before High Court—Dismissed, holding that assessee could have taken all the objections in reply to the notices and the writ petition was pre-mature—Held, when a notice u/s 148 is issued, proper course of action for noticee is to file return and, if he so desires, to seek reasons for issuing notices—Assessing officer is bound to furnish reasons within a reasonable time—Then noticee is entitled to file objections to issuance of notice and assessing officer is bound to dispose of the same by a speaking order—On facts, since reasons have been disclosed, assessing officer has to dispose of the objections, if any, by a speaking order before proceeding with the assessment—Order of High Court needs no interference.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7731 of 2002.

From the Judgment and Order dated 31.1.2002 of the Delhi High Court in C.W. No. 730 of 2002.

F

WITH

C.A. Nos. 7732, 7733-7734, 7735, 7736 and 7737 of 2002.

M.L. Verma, Jagdish Kumar Chawla, V.P. Gupta and R.K. Jain for the Appellant.

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Ranbir Chandra, Ms. Neera Gupta, Rajiv Tyagi and B.V. Balaram Das for the Respondents.

The following Order of the Court was delivered :

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A Heard learned counsel for the parties.

Leave is granted.

B By the order under challenge, a Division Bench of the High Court at Delhi dismissed the writ petition filed by the appellant challenging the validity of notices issued under Sections 148 and 143(2) of the Income Tax Act, 1961. The High Court took the view that the appellant could have taken all the objections in its reply to the notices and that, at that stage, the writ petition was premature. Accordingly, the writ petition was dismissed on 31st January, 2001. Aggrieved by that order, the appellant is in appeal before us.

C Mr. M.L. Verma, learned senior counsel appearing for the appellant, submits that the impugned notices relate to seven assessment years; that during the pendency of these appeals, in respect of two assessment years, viz., 1995-96 and 1996-97, assessment has been completed against which appeals have been filed. Notices relating to the other five assessment years, viz., 1992-93, 1993-94, 1994-95, 1997-98 and 1998-99, are now the subject-matter of these appeals.

D We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under Section 148 of the Income tax Act is issued, the proper course of action for the noticee is to file return and if he so desires, to seek reasons for issuing notices. The assessing officer 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 assessing officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the assessing officer has to dispose of the objections, if filed, by passing a speaking Order before proceeding with the assessment in respect of the abovesaid five assessment years.

E Insofar as the appeals filed against the order of assessment before the Commissioner (Appeals), we direct the appellate authority to dispose of the same, expeditiously.

G With the above observations, the civil appeals are dismissed.

No costs.

R.P.

Appeals dismissed.