

CASE NO.:
Appeal (civil) 7731 of 2002

PETITIONER:
GKN DRIVESHAFTS (INDIA) LTD.

RESPONDENT:
INCOME TAX OFFICER AND ORS.

DATE OF JUDGMENT: 25/11/2002

BENCH:
SYED SHAH MOHAMMED QUADRI & ARIJIT PASAYAT

JUDGMENT:
JUDGMENT

2002 Supp(4) SCR 359

The following Order of the Court was delivered :

Heard learned counsel for the parties. Leave is granted.

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.

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.

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.

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.

With the above observations, the civil appeals are dismissed. No costs.