

\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6113/2022 & CM APPLs.18449-18450/2022**

RAJEEV SADH

..... Petitioner

Through: Mr. Talha Abdul Rahman with
Mr. Shaz Khan and Mr. Harsh
Vardhan Kediya, Advocates.

versus

INCOME TAX OFFICER, WARD 58(7), DELHI AND ANR

..... Respondents

Through: Mr. Shailendra Singh, Advocate.

%

Date of Decision: 28th April, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the notice dated 30th March, 2021 issued under Section 148 of the Income Tax Act, 1961 (for short 'the Act'), assessment order, demand notice and penalty notice dated 31st March, 2022 for the Assessment Year 2017-18.

2. Learned counsel for the Petitioner states that the objections dated 17th March, 2022 in response to reasons to believe dated 15th March, 2022 were duly lodged on the portal; but the respondents have till date not adjudicated upon the same and have proceeded straightway to issue show cause notice for variation on 25th March, 2022 and have issued notice of demand dated

31st March, 2022.

3. On the last date of hearing, learned counsel for the respondents had taken time to obtain instructions. Today, learned counsel for the respondents admits that the objections dated 17th March, 2022 were not disposed of by the respondents. He, however, states that enough opportunity had been granted to the petitioner to present its case. Consequently, according to him non-disposal of the objections dated 17th March, 2022 was inconsequential.

4. Having heard learned counsel for the parties, this Court is of the view that the issue raised in the present writ petition is no longer res integra. The Supreme Court in ***GKN Driveshafts (India) Ltd. vs. Income Tax Officer and Ors., (2003) 1 SCC 72*** has held as under:-

“5. 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.”

5. Since in the present case, the objections were filed by the petitioner, this Court is of the view that the respondents were duly bound to decide the same before proceeding further in the matter.

6. Accordingly, the impugned assessment order and demand notice as well as penalty notice dated 31st March, 2022 for the Assessment Year 2017-18 are set aside and the matter is remanded back to the Assessing Officer to decide the objections dated 17th March, 2022 in accordance with law within eight weeks.

7. With the aforesaid direction, the present writ petition and applications stand disposed of.

MANMOHAN, J

SUBRAMONIUM PRASAD, J

APRIL 28, 2022
AS