

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.587 of 2022

Kishore Kumar Singh Son of Late Madan Kumar Singh Resident of
Biscomaun Colony, Sandalpur, Gulzarbagh, P.O. Gulzarbagh, P.S. - Alamganj,
Patna - 800007, Bihar.

... .. Petitioner/s

Versus

1. The Deputy / Assistant Commissioner of Income Tax Circle - 4 Patna, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
2. The Additional / Joint Deputy/ Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.
3. The Joint Commissioner of Income Tax, Range - 4, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.

. ... Respondent/s

with
Civil Writ Jurisdiction Case No. 2821 of 2022

Jayanti Sinha Wife of B.N. Sinha, Resident of 769A, Sushila Bhawan,
Buddha Colony, East Boring Canal Road, P.O. - G.P.O., P.S. - Buddha
Colony, Patna - 800 001, Bihar.

... .. Petitioner/s

Versus

1. The Principal Commissioner of Income Tax-1 Patna, Central Revenue Building, Bir Chand Patel Path, Patna.
2. The Deputy/Assistant Commissioner of Income Tax, Circle-4 Patna, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
3. The Additional/Joint/Deputy/ Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 2943 of 2022

Shree Nathji Gems and Jewels Pvt. Ltd. A Private Limited Company
incorporated under the companies Act, 1956, having its registered office at
103, City Palace, New Dak Bunglow Road, Patna, P.O. - G.P.O., P.S. -
Kotwali through its Director, Pranav Sunil Dokania, aged about 29 years,
male, son of Sunil Kumar Hari Prasad Dokania, Resident of A- 1003, Satellite
Tower, Film City Road, Near Wageshawari Mandir, Goregaon East, Mumbai -
400063, P.O. - Goregaon East and P.S. - Dindoshi, Malad East, District-
Borivali, (Maharashtra)

... .. Petitioner/s

Versus

1. The Principal Commissioner of Income Tax- 1 Patna, Central Revenue



Building, Bir Chand Patel Path, Patna.

2. The Deputy / Assistant Commissioner of Income Tax, Circle - 1 Patna, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bungalow Chowk, Patna.
3. The Additional / Joint / Deputy / Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3512 of 2022

Prit Diajewels Pvt. Ltd., a Private Limited Company incorporated Under the Companies Act, 1956, having its Registered Office at 103, City Palace, New Dak Bungalow Road, Patna, P.O.-G.P.O., P.S.-Kotwali through its Director, Pranav Sunil Dokania, aged about 29 Years, Male, Son of Sunil Dokania, Resident of A-1003, Satellite Tower, Film City Road, Near Wageshwari Mandir, Gotegaon East, Mumbai-400 063, P.O.-Goregaon East and P.S.-Dindoshi, Malad East, Borivali, (Maharashtra).

... .. Petitioner/s

Versus

1. The Principal Commissioner of Income Tax-1, Patna, Central Revenue Building, Bir Chand Patel Path, Patna.
2. The Deputy/Assistant Commissioner of Income Tax, Circle-1 Patna, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bungalow Chowk, Patna.
3. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3900 of 2022

Basudeo Prasad Son of Gopi Krishna Sarraf, Resident of G3A, Exhibition Road, Pusp Vihar, Patna, P.S. - Gandhi Maidan, District - Patna having office at 5th Floor, Puja Apartment, Wing A, New Dak Bungalow Road, Patna - 800001, Bihar.

... .. Petitioner/s

Versus

1. The Principal Commissioner of Income Tax-1, Patna Central Revenue Building, Bir Chand Patel Path, Patna.
2. The Deputy /Assistant Commissioner of Income Tax, Circle - 1, Patna, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bungalow Chowk, Patna.
3. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 587 of 2022)

For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate



For the Respondent/s : Ms. Smriti Singh, Advocate
Mrs. Archana Sinha @ Archana Shahi, Sr.
Advocate, Income Tax
Mr. Alok Kumar, Advocate
(In Civil Writ Jurisdiction Case No. 2821 of 2022)
For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate
Ms. Smriti Singh, Advocate
For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Sr.
Advocate, Income Tax
Mr. Alok Kumar, Advocate
(In Civil Writ Jurisdiction Case No. 2943 of 2022)
For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate
Ms. Smriti Singh, Advocate
For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Sr.
Advocate, Income Tax
Mr. Alok Kumar, Advocate
(In Civil Writ Jurisdiction Case No. 3512 of 2022)
For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate
Ms. Smriti Singh, Advocate
For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Sr.
Advocate, Income Tax
Mr. Alok Kumar, Advocate
(In Civil Writ Jurisdiction Case No. 3900 of 2022)
For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate
Ms. Smriti Singh, Advocate
For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Sr.
Advocate, Income Tax
Mr. Alok Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-04-2025

Pursuant to earlier orders, *Ms. Neha Singh*, Deputy
Commissioner of Income Tax is present in the Court.

2. In the instant writ petitions, petitioners have prayed
for the following reliefs :

In CWJC No. 587 of 2022 :

*“i) For issuance of writ of certiorari or any
other appropriate writ quashing the Notice under Section
148 of the Income Tax Act, 1961 (“the Act”) dated
31.03.2021, for assessment year 2016-17 issued by the*



Assistant Commissioner of Income Tax, Circle – 4, Patna (Respondent No. 1) herein and also referred to as the “Assessing Officer” hereinafter) initiating proceedings for reassessment against the Petitioner as being wholly illegal and without jurisdiction as the same has been initiated on mere change of opinion.

ii) For issuance of an appropriate writ quashing the preliminary order dated 21.12.2021 whereby the petitioner’s objection dated 02.12.2021 on the issue of assumption of jurisdiction has been rejected by National Faceless Assessment Centre, Delhi (also referred to as the “NFAC” hereinafter) without having jurisdiction over the petitioner’s case and in utter violation of Principles of Natural Justice that too by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon’ble Supreme Court in the case of GKN Driveshafts (India) vs. ITO and Others reported in (2003) 259 ITR 19.

iii) For issuance of an appropriate writ quashing the notices under Section 143(2) dated 23.11.2021 by which the Assessing Officer (R-1) has assumed jurisdiction to assess / reassess the alleged escaped income.

iv) For issuance of any other writ, order or direction which your Lordship may deem fit and proper in the facts and circumstances of the case.”

In CWJC No. 2821 of 2022 :

“i) For issuance of a writ of certiorari or any other appropriate writ quashing the Notice u/s 148 of the Income Tax Act, 1961 (“the Act”) dated 31.03.2021 (Annexure-1), for assessment year 2015-16 issued by the Assistant Commissioner of Income Tax, Circle-4, Patna



(the Respondent No. 2 herein and also referred to as the “Assessing Officer” hereinafter) initiating proceedings for reassessment against the Petitioner as being wholly arbitrary, illegal, without jurisdiction as the same has been initiated in absence of any finding attributing failure on part of the petitioner in disclosing fully and truly all material facts necessary for assessment and on mere change of opinion.

ii) For issuance of an appropriate writ quashing the preliminary order dated 01.02.2022 passed in pursuance of the said Notice by National Faceless Assessment Centre, Delhi ((Respondent No. 3) herein and also referred to as the “NFAC” hereinafter) whereby the petitioner’s objection on the issue of assumption of jurisdiction has been rejected by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon’ble Supreme Court in the case of GKN Driveshaft (India) vs. ITO and Others reported I (2003) 259 ITR 19.

iii) For issuance of an appropriate writ quashing the notice under section 143(2) dated 23.11.2021 by which the Respondent No. 2 has assumed jurisdiction to assess / reassess the alleged escaped income.

iv) For issuance of an appropriate writ quashing the notice under section 142 (1) dated 14.12.2021 by which the Respondent No. 3 has assumed jurisdiction to assess / reassess the alleged escaped income.

v) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”



In CWJC No. 2943 of 2022 :

“i) For issuance of a writ of certiorari or any other appropriate writ quashing the unsigned notice under Section 148 of the Income Tax Act, 1961 (“the Act”) dated 27.03.2021 (Annexure – 1), for assessment year 2014-15 issued by the Assistant Commissioner of Income Tax, Circle-1, Patna (the Respondent No. 2 herein and also referred to as the “Assessing Officer” hereinafter) initiating proceedings for reassessment against the Petitioner as being barred by limitation, wholly illegal and without jurisdiction as the notice has been issued beyond the limitation prescribed under Section 149 and the initiation is without recording any finding attributing failure on the part of the petitioner in disclosing fully and truly all material facts necessary for assessment and on mere change opinion.

ii) For issuance of an appropriate writ quashing the notice under section 142(1) dated 16.11.2021 by which Respondent No. 3 has assumed jurisdiction to assess / reassess the alleged escaped income by requisitioning certain details which were requisitioned in course of original assessment culminated vide order under Section 143(3) dated 26.09.2016.

iii) For issuance of an appropriate writ quashing the preliminary order dated 17.12.2021 passed in pursuance of the said Notice by National Faceless Assessment Centre, Delhi [(Respondent No. 3) herein and also referred to as the “NFAC” hereinafter] whereby the petitioner’s objection on the issue of assumption of jurisdiction has been rejected by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon’ble Supreme Court in



the case of GKN Driveshafts (India) vs. ITO and Others reported in (2003) 259 ITR 19.

iv) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

In CWJC No. 3512 of 2022 :

“i) For issuance of a writ of certiorari or any other appropriate writ quashing the unsigned notice under Section 148 of the Income Tax Act, 1961 (“the Act”) dated 31.03.2021, for assessment year 2014-15 issued by the Assistant Commissioner of Income Tax, Circle-1, Patna (the Respondent No. 2 herein and also referred to as the “Assessing Officer” hereinafter) initiating proceedings for reassessment against the Petitioner as being barred by limitation, wholly illegal and without jurisdiction as the notice has been issued beyond the limitation prescribed under Section 149 and the initiation is without recording any finding attributing failure on part of the petitioner in disclosing fully and truly all material facts necessary for assessment and on mere change opinion.

ii) For issuance of an appropriate writ quashing the notice under section 142(1) dated 08.01.2022 by which the National Faceless Assessment Centre, Delhi [(Respondent No. 3) herein and also referred to as “NFAC” hereinafter)] has assumed jurisdiction to assess / reassess the alleged escaped income by requisitioning certain details which were requisitioned in course of original assessment culminated vide order under Section 143(3) dated 30.07.2016.



iii) *For issuance of an appropriate writ quashing the notice cum clarification letter dated 25.01.2022 passed by NFAC whereby the petitioner has been required to submit documents as requisitioned vide notice u/s 142(1).*

iv) *For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”*

In CWJC No. 3900 of 2022 :

“i) *For issuance of a writ of certiorari or any other appropriate writ quashing the notice under Section 148 of the Income Tax Act, 1961 (“the Act”) dated 31.03.2021 (Annexure – 1), for assessment year 2015-16 issued by the Assistant Commissioner of Income Tax, Circle-1, Patna (the Respondent No. 2 herein and also referred to as the “Assessing Officer” hereinafter) initiating proceedings for reassessment against the Petitioner without recording any finding attributing failure on part of the petitioner in disclosing fully and truly all material facts necessary for assessment and on mere change opinion.*

ii) *For issuance of an appropriate writ quashing the preliminary order dated 22.02.2022 passed in pursuance of the said Notice by National Faceless Assessment Centre, Delhi [(Respondent No. 3) herein and also referred to as the “NFAC” hereinafter] whereby the petitioner’s objection on the issue of assumption of jurisdiction has been rejected by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon’ble Supreme Court in the case of GKN Driveshafts (India) vs. ITO and Others reported in (2003) 259 ITR 19.*



iii) *For issuance of an appropriate writ quashing the notice under Section 142(1) dated 24.02.2022 by which the Respondent No. 2 has assumed jurisdiction to assess / reassess the alleged escaped income by requisitioning certain details which were requisitioned in course of original assessment culminated vide order under Section 143(3) dated 29.12.2017.*

iv) *For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”*

3. Matter was heard earlier on 08.04.2025 and the Co-ordinate Bench has passed the following order :

“Matter heard at length.

*2. Learned counsel for the respondents are heavily relying on audit objection made them to reopen the assessment for the year 2016 and 2017 of the petitioner. Therefore, they are hereby directed to produce copy of the complete order sheet maintained by them in respect of the present case and so also audit objection raised by the competent authority. Further, we request respondents to peruse & appraise Supreme Court decision in the case of **ORXY Fisheries Private Limited vs Union of India and Others** reported in (2010) 13 SCC 427 in paragraphs 40 and 41 as well as **Kranti Associates Private Limited and Another vs Masood Ahmed Khan and Others** reported in (2010) 9 SCC 496 in Paragraph 47 which reads as under :-*

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.



(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of



reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process.”

*3. The respondents-Income Tax Department are exercising quasi-judicial functions, therefore, they are liable to follow the aforementioned principle laid down by the Hon'ble Supreme Court, in the present case, whether they have followed the aforementioned procedures or not, is to be apprised on the next date of hearing. Further to examine decision in the case of **Nusli N. Wadia vs Assistant Commissioner of Income Tax & Another**, reported in **(2023) 16 SCC 677**.*

4. List this matter for further hearing on 22.04.2025.”

4. It is necessary to reproduce impugned show cause notice (Annexure - 1) which reads as under :

“GOVERNMENT OF INDIA



**MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
DC/AC CIRCLE 4, PATNA**

To, Kishore Kumar Singh Sandalpur Sandalpur, Biscoman Colony Gulzarbagh 800007, Bihar India	
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PAN: AGPPS2858F	AY: 2016-17	Dated : 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020- 21/1032077395(1)
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Notice Under Section 148 of the Income Tax Act, 1961

Sir/Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2016-17 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.
I, therefore, propose to assess/re-assess the income/loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.
This notice is being issued after obtaining the necessary satisfaction of the RANGE 4, PATNA.

SAURABH UPADHYAY
DC/AC CIRCLE 4, PATNA”

5. Core issue involved in the present *lis* is whether notice under Section 148 of the Income Tax Act, 1961 requires reasons in support of notice or not. We are of the view that whatever notice issued by the official respondent, it must be supported by reasons otherwise aggrieved person has no opportunity of filing his detailed explanation to such notice. Reading of the aforementioned notice, it is very bald and vague, resultantly, petitioners are not in a position to submit their explanation effectively.



6. Learned counsel for the petitioners submitted that in the absence of reasons, notice is liable to be set aside. The respondents are exercising *quasi* judicial functions while invoking Section 148 of the Income Tax Act, 1961. In other words, the authority who has issued notice on 31.03.2021 is exercising *quasi* judicial functions. In such circumstances, whatever the notice issued must be supported by reasons. On this ground, the impugned notice is liable to set aside and writ petitions are to be allowed.

7. *Per contra*, learned counsel for the respondents resisted the aforementioned contentions and submitted that in terms of unamended Section 148 of the Income Tax Act, 1961 there is no provision for issuance of notice along with reasons so also amended Section 148 was notified on 01.04.2021. In the present case, unamended Section 148 is applicable. Further, learned counsel for the respondents relied on decisions of the Hon'ble Supreme Court in the case of ***GKS Driveshafts (India) Ltd. vs. Income Tax Officer and Ors.*** in Civil Appeal Nos. 7731 to 7737 of 2002 decided on November 25, 2002, Paragraph No. 5 on the issue that notice need not be supported by reasons. Similarly, in the case of ***Nusli N. Wadia vs. Assistant Commissioner of Income Tax And Another*** in the Bombay High



Court judgement dated 07.01.2022 reported in **(2022) 447 ITR 363** read with in the Hon'ble Supreme Court decision reported in **(2023) 16 SCC 677**. In the light of statutory provisions under Section 148 read with the aforementioned decisions, the respondent authorities need not assign the reasons in support of notice issued under Section 148 to the petitioners, therefore, petitioners have not made out a case so as to interfere with the impugned notice dated 31.03.2021.

8. Heard learned counsels for the respective parties.

9. Core issue involved in the present *lis* is whether official respondent while issuing notice under Section 148 of the Income Tax Act, 1961 require to furnish reasons or not? The learned counsel for the petitioners submitted that reasons are mandatory requirement to meet Article 14 of the Constitution of India otherwise petitioners are not in a position to submit their explanation in effective manner. It is also submitted that respondents while issuing notice under Section 148 are exercising *quasi* judicial functions, therefore, any *quasi* judicial action taken by the official respondent, it must be supported by reasons otherwise aggrieved person has no opportunity of submission of effective reply to the notice.



10. Learned counsel for the respondents relied on the cited decisions *supra* to contend that no reasons are required to be furnished along with the notice under Section 148, the same cannot be appreciated for the reasons that assuming that Section 148 does not prescribe notice must be supported by reasons, it is a *quasi* judicial function of the authority and it has repercussion insofar as in submitting effective reply or material to the notice issued under Section 148. In other words, reasonable opportunity is not provided to meet the notice. In the absence of any specific stipulation of assigning reasons under Section 148, still the authorities were required to follow the principles laid down by the Hon'ble Supreme Court in the case of ***Oryx Fisheries Private Limited vs. Union of India and Others*** reported in (2010) 13 SCC 427. That apart, the Constitution Bench of the Hon'ble Supreme Court in the case of ***Managing Director, ECIL, Hyderabad and Others vs. B. Karunakar and Others*** reported in (1993) 4 SCC 727, in which it is held that if the statutory provision does not provide issuance of second show cause notice and the inquiring officer's report, still the disciplinary authority was required to issue second show cause notice along with inquiring officer's report, the same principle is applicable to the case in hand to the extent of meeting Article 14 of the Constitution of India.



11. Decision in the case of **GKN Driveshafts** (cited *supra*) it is not that reasons have not been issued along with the notice, there are dearth of reasons, the same decision is not applicable to the case in hand, on the other hand, in the present case not even iota of material like reasons supporting the notice. **Nusli N. Wadia** case (cited *supra*) in which the Bombay High Court passed the following order :

“1. We are not inclined to interfere in our jurisdiction under article 226 of the Constitution of India.

2. The petition dismissed.

3. At the same time, considering the reply that is filed, we direct the respondents to provide a copy of the reasons based on which notice under section 148 of the Income-tax Act, 1961, was issued, within four weeks from today. Thereafter, the petitioner may respond to the notice and the respondents will follow due process in accordance with law.”

12. Paragraph No. 3 is specific insofar as providing copy of the reasons based on which notice under Section 148 of the Income Tax Act, 1961 was issued and it should be provided within a period of four weeks from date of judgment and it has been affirmed by the Hon’ble Supreme Court which is reported in



(2023) 16 SCC 677. It is necessary to reproduce the Hon'ble Supreme Court's decision and it reads as under :

"1. The impugned order dated 7-1-2022, it has been rightly contended, is a non-speaking and cryptic order. However, we are not inclined to issue notice in the present special leave petition and leave it open to the petitioner to file return of income under protest within one month, without prejudice to the rights and contentions, and ask for the reasons for issue of notice under Section 147 of the Income Tax Act, 1961. The procedure as prescribed in GKN Driveshafts (India) Ltd. vs. CIT, would be followed by the assessing officer. In case of an adverse order, it will be open to the petitioner to challenge the same.

2. All contentions are left open.

3. In view of the aforesaid, the special leave petition is dismissed. Pending application(s), if any, stand disposed of."

Reading of the aforementioned decision, it is crystal clear that notice must be supported by reasons.

13. In the case of ***Union of India and Ors. vs. Rajeev Bansal*** in **Civil Appeal No. 8629 of 2024 (2024 INSC 754)** decided on 03.10.2024 in Paragraph Nos. 93 and 102, the Hon'ble Supreme Court held as under :

93. In *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC



617.] , this court was aware of the fact that it could not have used its jurisdiction under article 142 to affect the vested rights of the assesseees by deeming section 148 notices under the old regime as section 148 notices under the new regime. Hence, it deemed the reassessment notices issued under the old regime as show-cause notices under section 148A(b) of the new regime. Further, the court directed the Revenue to provide all the relevant material or information to the assesseees and thereafter allowed the assesseees to respond to the show-cause notice by availing of all the defences, including those available under section 149. Thus, the court balanced the equities between the Revenue and the assesseees by giving effect to the legislative scheme of reassessment as contained under the new regime. It supplemented the existing legal framework of the procedure of reassessment under the Income-tax Act with a remedy grounded in equitable standards.

102. While creating the legal fiction in *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , this court was cognizant of the fact that the Assessing Officers were effectively inhibited from performing their responsibility under section 148A until the requirement of supply of relevant material and information to the assesseees was fulfilled. This court lifted the inhibition by directing the Assessing Officers to supply the assesseees with the relevant



material and information relied upon by the Revenue within thirty days from the date of the judgment. Thus, during the period between the issuance of the deemed notices and the date of judgment in *Union of India v. Ashish Agarwal* [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , the Assessing Officers were deemed to have been prohibited from proceeding with the reassessment proceedings.

Underline Supplied

14. The Hon'ble Supreme Court in the case of *Managing Director, ECIL, Hyderabad and Others* (cited *supra*), it is held as under :

“19. In Mohd. Ramzan Khan case [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] the question squarely fell for consideration before a Bench of three learned Judges of this Court, viz., that although on account of the Forty-second Amendment of the Constitution, it was no longer necessary to issue a notice to the delinquent employee to show cause against the punishment proposed and, therefore, to furnish a copy of the enquiry officer's report along with the notice to make representation against the penalty, whether it was still necessary to furnish a copy of the report to him to enable him to make representation against the findings recorded against him in the report



before the disciplinary authority took its own decision with regard to the guilt or otherwise of the employee by taking into consideration the said report. The Court held that whenever the enquiry officer is other than the disciplinary authority and the report of the enquiry officer holds the employee guilty of all or any of the charges with proposal for any punishment or not, the delinquent employee is entitled to a copy of the report to enable him to make a representation to the disciplinary authority against it and the non-furnishing of the report amounts to a violation of the rules of natural justice. However, after taking this view, the Court directed that the law laid down there shall have prospective application and the punishment which is already imposed shall not be open to challenge on that ground. Unfortunately, the Court by mistake allowed all the appeals which were before it and thus set aside the disciplinary action in every case, by failing to notice that the actions in those cases were prior to the said decision. This anomaly was noticed at a later stage but before the final order could be reviewed and rectified, the present reference was already made, as stated above, by a Bench of three learned Judges. The anomaly has thus lent another dimension to the question to be resolved in the present case.”



15. The general principle insofar as providing opportunity or reasons in support of any adverse order or civil consequence, in such circumstance invariably reasons must be supported. In the present case, by virtue of notice under Section 148, petitioners are required to submit their explanation or whatever the materials. In this regard, unless and until petitioners are made known that they have to answer to the notice and it is not supported by reasons, otherwise they are not in a position to submit effective reply / explanation with the material information. On this score the petitioners have made out a case. Accordingly, impugned Notices dated 31.03.2021 and 23.11.2021 (Annexures - 1 and 3) and Order dated 21.12.2021 (Annexure - 2) in CWJC No. 587 of 2022, Notices dated 31.03.2021, 23.11.2021, 14.12.2021 (Annexures – 1, 3 and 4) and Order dated 01.02.2022 (Annexure – 2) in CWJC No. 2821 of 2022, Notices dated 27.03.2021 and 16.11.2021 (Annexure - 1 and 2) and Order dated 17.12.2021 (Annexure – 3) in CWJC No. 2943 of 2022, Notices dated 31.03.2021, 08.01.2022 and 25.01.2022 (Annexures – 1, 2 and 3) in CWJC No. 3512 of 2022 and Notices dated 31.03.2021 and 24.02.2022 (Annexures - 1 and 3) and order dated 22.02.2022 (Annexure – 2) in CWJC No. 3900 of 2022 stand set aside.



16. Writ petitions stand allowed. Reserving liberty to the respondents to issue fresh notice supported by reasons, such exercise shall be undertaken within a period eight weeks from today, reserving liberty to raise such other contentions on behalf of the petitioners are left open to be urged before concerned authority/forum.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

GAURAV S./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	25.04.2025
Transmission Date	

