

(2011) 03 MAD CK 0572

Madras High Court

Case No: Writ Petition No. 2583 of 2011 and M.P. No. 1 of 2011

Nexus Transcore Industries

APPELLANT

Vs

The Assistant Commissioner of
Income Tax

RESPONDENT

Date of Decision: March 21, 2011

Acts Referred:

- Income Tax Act, 1961 - Section 147, 148

Hon'ble Judges: M. Jaichandren, J

Bench: Single Bench

Advocate: R. Sivaraman, for the Appellant; J. Narayanasamy, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M. Jaichandren, J.

Heard the learned Counsel appearing for the Petitioner and the learned Special Government Pleader appearing for the Respondents.

2. The main contention of the learned Counsel appearing on behalf of the Petitioner is that the Respondent has passed the impugned order, dated 31.12.2010, u/s 147 of the Income Tax Act, 1961, without passing a separate speaking order on the objections raised by the Petitioner, on 15.09.2010. Therefore, the impugned order of the Respondent, dated 31.12.2010, is contrary to law and the decision of the Hon'ble Supreme Court, made in GKN Driveshafts (India) Ltd. Vs. Income Tax Officer and Others, . Paragraph 5 of the order of the Supreme Court reads as follows:

5. We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice u/s 148 of the IT 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 AO 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 AO 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 AO 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.

3. The learned Counsel appearing on behalf of the Respondent, on instructions, had not refuted the submissions made by the learned Counsel appearing on behalf of the Petitioner.

4. In such circumstances, this Court finds it appropriate to set aside the impugned order of the Respondent, dated 31.12.2010. The Respondent is directed to consider the objections raised by the Petitioner, on 15.09.2010, and pass a separate speaking order, within a period of eight weeks from the date of receipt of a copy of this order and to proceed further, as per law.

The writ petition is ordered accordingly. No cost. Consequently, connected miscellaneous petition is closed.