Ashok Kumar Sharma v. Principal Commissioner of Income Tax and others

CWP 2609/2022

CWP 2609/2022 | 2023-06-22

Reopening notice issued after jurisdiction transfer quashed

127 | 148 | 148A

High Court of Himachal Pradesh | Shimla | M.S. Ramachandra Rao | Ajay Mohan Goel

Assessment years: 2015-16

01 FACTS OF THE CASE

Ashok Kumar Sharma challenged the Shimla ITO's section 148 notice dated 1 April 2022 for AY 2015-16. A section 127(2) order dated 15 March 2022 had transferred assessment jurisdiction to ITO Ward 30(1), New Delhi, with effect from 12 March 2022. Revenue relied on the earlier section 148 A(b) notice of 22 March, delayed receipt of the transfer order and continued PAN mapping to Shimla on the electronic system.

Source: PDF pp.1–6, paras1–12

02 DISCUSSION BY THE HON'BLE COURT

The Court entertained the jurisdictional challenge despite alternative remedies. The transfer had extinguished Shimla's jurisdiction before the impugned notice. The preliminary section 148 A process did not preserve it; section 127(4) did not validate a notice issued after transfer. An officer directed to transfer the PAN and records could not rely on non-compliance with that direction to continue exercising jurisdiction.

Source: PDF pp.7–11, paras15–25

03 JUDICIAL DECISION

The writ petition was allowed. The section 148 notice of 1 April 2022 was quashed and the Shimla officer prohibited from acting on it. The Delhi officer was given liberty to proceed in accordance with law for AY 2015-16, with all the petitioner's grounds of defence preserved.

Source: PDF p.12, paras27–28

04 OUTCOME / IN WHOSE FAVOUR

The assessee succeeded on the issuing officer's lack of jurisdiction. The Court expressly left the parties' substantive claims undecided and permitted lawful proceedings by the transferee officer. It did not cancel all possible liability for the year.

Source: PDF p.12

05 EXPERT COMMENTS

A transfer order controls over an unchanged electronic assignment — The effective date of the section 127 order, rather than continued PAN visibility in the old officer's system, determined authority to issue the notice. The relevant evidence is the transfer order, its operative date, the officer's subsequent notices and the objections placed on record. Paragraph 25 rejects using the failure to move the PAN and records as a source of jurisdiction. The finding is specific to an actual transfer, not any discrepancy in portal particulars.

Distinguish pre-notice enquiry from authority to reopen — Revenue relied on having started the section 148 A process before learning of the transfer. The Court separated that preparatory process from the later section 148 notice and observed that transfer after the notice would have presented a different situation. The chronology must therefore be tested at the relevant statutory act; a pending enquiry is not an automatic reservation of the old officer's powers after an effective transfer.

Preserve the liberty and the limit of the limitation observation — Paragraph 27 permits the Delhi officer to act in accordance with law and preserves every defence. Paragraph 26's reference to a ten-year period ending 31 March 2026 is a statement made in this 2023 judgment, subject to its stated income threshold; it is not a current-law certification that a new notice is now valid. The Court expressly refrained from deciding the underlying merits. This separate petition remains distinct from the other Sharma petition despite closely matching reasoning.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Himachal Pradesh High Court judgment; verified source copy

Complete source PDF reviewed: 12 physical pages.

All 12 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.