IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

C.W.P. No.928 of 1989
Date of Decision:05.09.2007

M/s Telu Ram, B.K.O. Raman, Distt. Bhatinda, through Sh. Telu Ram, partner

.....Petitioner

Vs.

Commissioner of Income Tax, Jalandhar and another

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. B.K.Jhingan, Advocate for the petitioner.

Mr. Yogesh Putney, Advocate for the respondent.

****

The challenge in the present petition is to the notices dated 17.2.1988 Annexures P-6 and P-7 issued under Section 148 of the Income Tax Act, 1961 (for short, `the Act') and the memo letters dated 2.12.1988 Annexures P-11 and P-12 whereby the respondents have refused to supply the reasons for re-opening of assessments to the petitioner.

Briefly, the facts are that after the assessments of the petitioner were framed, respondent No.2 issued notices to the petitioner under Section 148 of the Act for re-opening of the assessments. The same was replied to by the petitioner raising various objections and, thereafter, even return was also filed by the petitioner, in pursuance to the notices Annexures P-6 and P-7 though under protest. Copies of the return filed by the petitioner have been placed on record as Annexures P-8 and P-9. Thereafter, request made by the petitioner for supply of reasons for re-opening of assessments was declined. It is at this stage that the petitioner approached this Court.

I have heard learned counsel for the parties. Both the counsels do not dispute that the grouse made by the petitioner in the present writ petition can be disposed of in terms of the judgment of Hon'ble the Supreme Court in **GKN Driveshafts (India) Ltd. v. Income-Tax Officer and others,** (2003) 259 ITR 19, which is to the following effect:-

> "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 a 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."

Accordingly, it is directed that respondent No.2 shall furnish reasons for re-opening of the assessments to the petitioner. Thereafter, the petitioner shall be at liberty to file objections thereto which shall be disposed of by the competent authority by passing a speaking order before proceeding to frame the assessment.

The writ petition is disposed of in the manner indicated above.

September 05, 2007 **(RAJESH BINDAL)**
renu **JUDGE**