

*“It is an admitted fact that the impugned notice dated 15/2/2008 Exhibit-I) was issued by Income Tax Officer, Patan Ward-III, Mehsana, whereas the Assessment Order has been framed by Assistant Commissioner of Income Tax, Patan Circle, Patan, the respondent herein. Though learned senior counsel appearing on behalf of respondent authority has tendered affidavit-in-reply dated 4/2/2009, the averments made on behalf of the petitioner that the Income Tax Officer had no jurisdiction to issue notice u/s 148 of the Act has not been controverted in the said affidavit. It is true that in the Assessment Order respondent authority has sought to deal with this objection by taking recourse to provisions of section 292B of the Act. However, as the said aspect, namely notice under Section 148 of the Act having been issued by an officer who did not have jurisdiction, is not contested, the petition is required to be allowed on this limited count.”*