

## **Assessee can raise jurisdictional issue before AO who issued reassessment notice: Madras HC**

INCOME TAX : Where assessee filed writ petition against notice issued under section 148 upon it for reason that LTCG arose on sale of property by assessee had escaped assessment contending that income after deduction of cost of acquisition and expenses in connection with transfer of property was less than taxable income, it was not that assessee would not have any opportunity to raise jurisdiction issue in section 148 proceedings, thus, assessee was to be directed to file reply to show cause notice issued under section 148, raising issue on jurisdiction along with relevant documents in support of her claim and impugned writ was to be dismissed

Section 149, read with sections 148 and section 148A of the Income-Tax Act, 1961 - Income escaping assessment - Time limit for issue of notice (General) - Assessment year 2015-16 - Assessee had sold her land for a sum of Rs. 40 lakhs, however, market value of property had been shown in sale deed as Rs. 51 lakhs - Therefore, income chargeable to tax after deduction of cost of acquisition and expenses in connection with transfer of property was less than taxable income, hence, there was no obligation for assessee to file return of income - However, Assessing Officer issued show cause notice under section 148A calling upon assessee to show cause as to why not income chargeable to tax be treated as escaped income - Since assessee did not furnish any details with regard to cost of property plus improvement made therein etc., Assessing Officer issued notice under section 148 - Assessee filed an instant writ petition contending that Officer, who passed impugned order under section 148(A)(d) and impugned notice issued under section 148 had no jurisdiction - Whether it was not that assessee would not have any opportunity to raise jurisdiction issue in section 148 proceedings - Held, yes - Whether assessee was to be directed to file reply to show cause notice issued under section 148, raising issue on jurisdiction along with relevant documents in support of her claim - Held, yes - Whether thereafter, Assessing Officer was to consider jurisdictional issue with regard to notice under section 148 after taking into consideration reply filed by assessee and after affording an opportunity of personal hearing - Held, yes [Paras 8 and 10] [Matter remanded]

*Click below link for the judgment:*

<https://www.taxmann.com/research/direct-tax-laws/top-story/10101000000346683/assessee-can-raise-jurisdictional-issue-before-ao-who-issued-reassessment-notice-madras-hc-caselaws>

*(Source: Taxmann.com)*