

HC quashes order passed without giving time to assessee to file objections even it wasn't case of time barring assessment

Where assessee sought time to file objections to show cause notice issued by department under section 148A(b) but department did not pay heed to same and all of a sudden, it directed assessee to file its reply, since it was not a case of time barring assessment nor was there any urgency for it, this approach of department was in violation of principles of natural justice and hence, order of assessment deserved to be quashed

Section [148A](#), read with section [143](#), of the Income-Tax Act, 1961 - Income escaping assessment - Conducting inquiry, providing opportunity before issue of notice (Opportunity of hearing) - Assessment year 2018-19 - Whether while acting as quasi-judicial authority, it is expected from revenue to follow principles, which are very well established and one of them is giving opportunity to parties and to follow procedure in accordance with law - Held, yes - Assessee filed his original return of income for relevant year - A show-cause notice under section 148A(b) was issued on 20-3-2022 asking assessee to submit response on or before 27-3-2022 - Assessee sought 15 days time to file objections explaining reasons for such an adjournment on 20-3-2022 - This was never replied to and an E-mail was received from department on 5-4-2022 at 6:44 p.m. granting time till 1:30 p.m. of 6-4-2022 stating reason that matter was time barred - On 6-4-2022 assessee requested an adjournment of atleast three days stating that objections were under preparations and details were being collected from previous consultant as well as concerned parties - However, department had not paid any heed and passed order under section 148A(d) on 6-4-2022 - Whether when assessee made a specific request of 15 days on ground that tax consultant was busy in time barring assessment proceedings and revenue chose not to reply to same on 27-3-2022 and all of a sudden, on 5-4-2022, it directed assessee to file its reply on or before 6-4-2022 when it was not a case of time barring assessment nor was there any urgency, this approach of department was not at all conclusive and just - Held, yes - Whether all that Assessing Officer could have done was to grant three days time, which was requested for by assessee on 6-4-2022 showing his inability and also pointing out that it was not time barring assessment - Held, yes - Whether therefore, there was a violation of principles of natural justice in instant case and, hence, order of assessment deserved to be quashed - Held, yes [Para 5] [In favour of assessee]

Pl. click below link for judgment:

<https://www.taxmann.com/research/direct-tax-laws/top-story/101010000000330849/hc-quashes-order-passed-without-giving-time-to-assessee-to-file-objections-even-it-wasnt-case-of-time-barring-assessment-caselaws>

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