



2025:AHC:178720-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 3702 of 2025

Arjun Sahu

.....Petitioner(s)

Versus

Assistant Commissioner Of Income Tax And
Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Mayank Chandra, Surya Pratap Singh
Counsel for Respondent(s)	:	Gaurav Mahajan, Krishna Agarawal, Shalini Goel

Connected With:

WRIT TAX No. - 3703 of 2025

Syed Quamer Abbas Zaidy

.....Petitioner(s)

Versus

Assistant Commissioner Of Income Tax And
Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Mayank Chandra, Shriyanshi Upadhyay, Surya Pratap Singh
Counsel for Respondent(s)	:	Dhananjay Awasthi, Gaurav Mahajan

And

WRIT TAX No. - 3704 of 2025

Shashi Kiran

.....Petitioner(s)

Versus

Income Tax Officer And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Mayank Chandra, Surya Pratap Singh, Suyash Mehrotra
Counsel for Respondent(s)	:	Dhananjay Awasthi, Gaurav Mahajan

WRIT TAX No. - 3705 of 2025

Nikhil Nirwal

.....Petitioner(s)

Versus

Income Tax Officer And Another
.....Respondent(s)

Counsel for Petitioner(s) : Mayank Chandra, Surya Pratap Singh
Counsel for Respondent(s) : Dhananjay Awasthi, Gaurav Mahajan

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

1. **Heard Shri Nitin Kanwar**, learned counsel along with Shri Surya Pratap Singh, learned counsel for petitioners, Ms. Shalini Goel, learned counsel and Shri Dhananjay Awasthi, learned counsel for revenue.
2. Present writ petitions have been filed to assail the re-assessment proceedings initiated against the petitioners. Details of the same are disclosed hereinbelow:

S.I.No	Writ Number		Party Name	Assessment Year	Date of Notice
1	3702 2025	of	Arjun Sahu	2023-2024	23.03.2025
2	3703 2025	of	Syed Quamer Abbas Zaidy	2023-2024	20.03.2025
3	3704 2025	of	Shashi Kiran	2021-2022	27.03.2025
4	3705 2025	of	Nikhil Nirwal	2023-2024	25.03.2025

3. Common submissions have been advanced. Accordingly all four writ petitions are being disposed of by this order.
4. Submission is, the re-assessment notices have been issued under Section 148 of the Income Tax Act, 1961 after the amendment to Section 148-A made by the Finance Act No. 2 of 2024, w.e.f. 01.09.2024. Therefore, the obligation to grant opportunity to the individual petitioners' under that provision of law was mandatory, before re-assessment

proceedings may have been initiated under Section 148 of the said Act.

5. As a fact, it has been submitted there is absolutely no material against any of the petitioners as may indicate to their respective Assessing Authority-that any income has escaped assessment, at their hands. No material, relevant to the present petitioners, was discovered in any of the search proceedings. Therefore, the re-assessment proceedings are without jurisdiction.

6. In continuation, it has been submitted, to the extent the petitioners have not been confronted with the adverse material and to the extent they have not been granted any opportunity to explain the correct facts by objecting to the proposed assumption of jurisdiction of re-assessment, there is no remedy available to the petitioners but to approach this Court.

7. On the other hand learned counsel for revenue have vehemently urged that the provisions of Section 148-A, as amended by Finance Act No.2 of 2024, do not apply to cases of search that were carried out before 01.09.2024. To the extent it cannot be disputed that the search giving rise to the impugned re-assessment proceedings (against the petitioners), were completed before 01.09.2024, the Assessing Authority is not obligated or required by law to give any opportunity to raise objections to assumption of jurisdiction to re-assess them. Once the petitioners filed their return and participated in the proceedings, they will have ample opportunity, to dispute the assessment being proposed.

8. Having heard learned counsel for parties and having perused the records, it appears that the objection being raised by the revenue is hyper technical to be adjudicated, at this stage. Even if the objection being raised by the revenue were to be sustained, it may never be denied prior to the introduction of statutory law under Section 148-A there existed binding precedential law under the **GKN Driveshafts (India) Ltd v. Income Tax Officer 2003 259 ITR page 19 SC** wherein it was observed as below:

"5. 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 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, 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 objection, if filed, by passing a speaking order, before proceeding with the assessment in respect of the aforesaid five assessment years "

9. Therefore, in this branch of law and in these nature of proceedings, it was settled from before introduction of Section 148-A, that the Assessing Authority may afford minimal opportunity to the assessee to object to the initiation of re-assessment proceedings, before that proceeding is actually undertaken-to re-assess an assessee.

10. In view of the above consideration, even if it is assumed-for the sake of argument, that there does not exist any statutory requirement under Section 148-A to afford the petitioner an opportunity to formally object to the proposed assumption of re-assessment proceedings, yet, equally binding effect in law would force the Assessing Authority to afford such opportunity under the precedential law that pre-existed that statutory provision.

11. The force of law created by virtue of Article 141 of the Constitution of India has not been diluted or done away by any of the amendments made to the Income Tax Act, 1961.

12. Even otherwise, we find that the rule of law introduced by **GKN Driveshafts (supra)**, is deeply entrenched in our jurisprudence as also finds reverberate in the statutory principle contained in Section 148-A of the Income Tax Act, 1961.

13. Consequently, we find no reason to allow the revenue an unfair advantage at this stage, by proceeding to initiate re-assessment proceedings against the petitioners *ex parte*, so to say. Affording minimal opportunity of objection to such proceedings before actual exercise is undertaken introduces more transparency and therefore, infuses more credibility in the re-assessment proceedings that the assessing officer

proposes to undertake.

14. For the aforesaid reasons, we find no useful purpose will be served by keeping these petitions pending and calling counter affidavit, at this stage. Accordingly, the writ petitions are disposed of with the following directions:

(i) Subject to the assessee filing their individual return on or before 31.10.2025, their respective assessing authority will confront the petitioner with information received as is being relied to initiate proceedings i.e. through email, within one week from the filing of return.

(ii) Thereafter, the individual assessee will have two weeks time, to file objections to the proposed re-assessment proceedings through the mode as may be provided for by the Assessing Officer and as may be facilitated to ensure that the objections are actually received by the competent authority.

(iii) Upon such objections being filed, a reasoned and speaking order may be passed by the concerned authority, within a further period of two weeks therefrom. Such order may be communicated to the individual assessee accordingly.

(iv) If re-assessment proceedings are to be initiated, the first date of the re-assessment proceedings may be fixed with at least thirty days advance notice.

15. Needless to add if any jurisdictional issue survives, petitioners will be at liberty to approach the Court at that stage.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

October 8, 2025

Nadeem