

No reassessment after 4 years without obtaining sanction of CIT - original assessment was made under sec. 143(3)

Summary – The High Court of Allahabad in a recent case of Reliable Finhold Ltd., (the Assessee) held that where original assessment was made under section 143(3), issuance of notice under section 148 after four years from end of relevant assessment year without sanction of Commissioner was invalid

Facts

- The assessee was assessed under section 143(3) for relevant assessment year.
- Thereafter a notice under section 148 was issued on 29-3-2005.
- The assessee challenged the notice on the ground that it was issued without the sanction of the Chief Commissioner or the Commissioner under section 151.
- The Assessing Officer, by impugned order, disposed of the assessee's objection.
- On writ:

Held

- Sub-section (1) of section 151 provides *inter alia* that where an assessment has been made under section 143(3), a notice under section 148 cannot be issued by an Assessing Officer, who is below the rank of Assistant Commissioner or Deputy Commissioner unless the Joint Commissioner is satisfied on the reasons recorded by the Assessing Officer that there is a fit case for the issuance of a notice. The proviso to sub-section (1), however, requires the satisfaction of the Chief Commissioner/Commissioner after the expiry of a period of four years from the end of the relevant assessment year, failing which, no notice can be issued.
- In the instant case, the original assessment was made under section 143(3). The notice under section 148 was issued more than five years after the end of the relevant assessment year.
- In the circumstances, the proviso to sub-section (1) of section 151 was attracted. As the counter affidavit filed by the revenue indicates no sanction or permission of the Commissioner was obtained.
- In this view of the matter, the entire exercise of reopening of the assessment under section 148 fails to meet the basic jurisdictional requirement under the proviso to sub-section (1) of section 151 since under the proviso no notice can be issued except on the satisfaction of the Commissioner or as the case may be the Chief Commissioner and, admittedly, there was no such satisfaction in the instant case.
- The reassessment notice is, accordingly, quashed and set aside having been issued without the satisfaction of the Chief Commissioner or the Commissioner as required by the proviso to sub-section (1) of section 151.