

HC slams AO for invoking reassessment proceedings without disposing off assessee's objections

Summary – The High Court of Karnataka in a recent case of Deepak Extrusions (P.) Ltd., (the Assessee) held that It is obligatory on part of Assessing Officer to dispose of assessee's objections before invoking re-assessment proceedings

Facts

- For relevant year, the Assessing Officer issued notice under section 148 for the re-opening of assessment.
- The assessee requested the Assessing Officer to furnish the reasons in accordance with law. The Assessing Officer furnished the reasons for re-opening of the assessment and for issue of notice and thereupon the assessee filed objections to the reasons *inter alia* contending that the notice was bad in law.
- The Assessing Officer without disposing of assessee's objections proceeded with re-assessment proceedings. He passed an assessment order under section 147, read with section 143(3).
- Against said order the assessee filed a writ petition which was dismissed by the Single Judge on the ground of availability of alternative efficacious remedy.
- Thus, the question to be considered in the instant appeal was, whether it was obligatory on the part of the Assessing Officer to dispose of the objection before invoking the re-assessment proceedings or not.

Held

- The law is well settled that if the assessee desires to seek the reasons for issuing the notice, the Assessing Officer is bound to furnish the reasons and upon the receipt of such reasons, the assessee is entitled to file the objections to the issuing of the notice and the Assessing Officer thereafter is bound to dispose of the same by passing a speaking order. It is only thereafter the assessment may proceed in accordance with law unless there is any prohibitory order of the competent forum.
- If the facts of the present case are examined in the light of aforesaid legal position, it is an admitted position that the reasons for re-opening of the assessment by issuing of the notice under section 148 were supplied to the assessee. It is also admitted position that the assessee after receipt of such reasons raised objections. It is also undisputed position that the Assessing Officer did not dispose of the objections prior to proceeding with the assessment further and proceeded to pass the order for assessment.
- Under the circumstances, it can be said that the mandatory procedure of disposal of the objection by Assessing Officer before proceeding with the assessment has not been followed and exercise of power can be said as not only vitiated, but the order of assessment cannot be sustained.

- In view of the aforesaid, the impugned order passed by the Single Judge is set aside. The impugned order of assessment is also set aside.