

Reassessment notice quashed as it was issued by non-jurisdictional AO: HC

Summary – The High Court of Gujarat in a recent case of Pankajbhai Jaysukhlal Shah, (the Assessee) held that reassessment notice needs to be quashed as it was issued by non-jurisdictional AO

Facts

- The assessee filed the return of income after which the Income-tax officer sought to reopen the assessment. After the issuance of notice under section 148, the charge was transferred to the Assistant Commissioner who was the current Assessing Officer of the petitioner.
- Upon receipt of the reasons recorded, the petitioner found that the same was recorded by the Deputy Commissioner, Circle-2, Jamnagar. Thereafter, by a letter, the petitioner raised objections against the initiation of proceedings under section 148.
- On writ:

Held

- The HC held that a notice under section 148(1) would be a valid notice if the jurisdictional Assessing Officer records the reasons for reopening the assessment and the same jurisdictional Assessing Officer issues the notice under section 148(1).
- In the instant case, the reasons for reopening the assessment has been recorded by the jurisdictional Assessing Officer *while* the notice under section 148(1) has been issued by the Income Tax Officer who had no jurisdiction over the petitioner. Hence, such notice was bad on the count of having been issued by an officer who had no authority in law to issue such notice.
- The impugned notice issued under section 148, and all the proceedings pursuant thereto including the assessment order are, hereby, quashed and set aside.