





Sr. No.	Date	Orders
*	+	<p>IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>ICW 8121/2002</p> <p>SOFEMA SA FRANCE Petitioner Through: Mr. Parag Tripathi, Sr. Adv. with Mr. Ashish Wad and Ms. N. Bahl, Adv.</p> <p>versus</p> <p>DY. DIRECTOR OF INCOME TAX & OR Respondent Through: Mr. Sanjiv Khanna, Adv. with Mr. S. C. Sharma, Adv.</p> <p>CORAM: HON'BLE MR. JUSTICE D.K. JAIN HON'BLE MR. JUSTICE MAHMOOD ALI KHAN</p> <p style="text-align: center;">O R D E R</p> <p style="text-align: center;">----- 20.12.2002</p> <p>Challenge in this writ petition is to the three notices issued to the petitioner under Section 147 read with Section 148 of the Income Tax Act, 1961 (for short the Act), seeking to re-open assessments for the assessment years 1999-2000 to 2000-2001.</p> <p>Since one of the issues raised by the petitioner is that the reasons recorded by the Assessing Officer for re-opening the assessment have not been supplied to it, on the last date of hearing Mr. Khanna, learned senior standing counsel for the Revenue had sought time to seek instructions in that behalf. It is now pointed out by learned senior counsel for the petitioner that the reasons have since been supplied to the petitioner. He, however, submits that the reasons disclosed are no reasons in the eye of law which could enable the Assessing Officer to take recourse to the provisions of</p>



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		<p style="text-align: center;">2</p> <p>Section 147 of the Act and, therefore, the petitioner would like to file objections thereto. In support of the argument, learned counsel places reliance on the earlier orders passed by this court in CWP No.6307/2000 and another connected matters.</p> <p>Mr. Khanna, learned counsel for the Revenue, on the other hand, submits that since the reasons recorded by the Assessing Officer have been disclosed to the petitioner, he is free to file objections against these reasons before the Assessing Officer, who would be obliged to consider the same in accordance with law.</p> <p>We find substance in the submission of learned counsel for the Revenue. We may also note that in a very recent decision in <u>GKN Driveshafts (India) Ltd. Vs. Income Tax Officer and Ors.</u> JT 2002(9) SC 574, their lordships of the Supreme Court have been pleased to observe that when a notice under Section 148 of the Act is issued to an assessee, 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 then bound to furnish reasons within a reasonable time. On receipt of the reasons, the 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.</p>



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		<p style="text-align: center;">13</p> <p>In the instant case, as noticed above, the reasons having been disclosed to the petitioner, it is open to the petitioner to file his objections thereto before the Assessing Officer. Needless to add that all the grounds raised in the present petition can be urged before the Assessing Officer, in case the petitioner chooses to file objections to the reasons disclosed.</p> <p>Consequently, we dispose of the petition with a direction to the Assessing Officer to dispose of the objections, in case the same are filed by the petitioner ^{✓ within two weeks from today ✓} before proceeding further with the assessment in respect of the said assessment years. It goes without saying that in case the petitioner is not satisfied with the order passed by the Assessing Officer, while dealing with the objections raised by the petitioner, it would be open to it to seek its appropriate remedy, as may be available in law.</p> <p>Petition stands disposed of in terms of the above order.</p> <p>Copy of the order be issued to the counsel for petitioner dasti.</p> <div style="text-align: right;">  D.K. JAIN, J </div> <div style="text-align: right; margin-top: 10px;">  MAHMOOD ALI KHAN, J </div> <p>DECEMBER 20, 2002 'SP'</p>