

Notice of Income Tax Assessment made in the name of a deceased individual is not legal: Delhi HC

FACT OF THE CASE

1. Dharamraj, the petitioner, has challenged the notices and actions on the grounds that they were issued against a person who died before the notice was issued, rendering all proceedings illegal ab initio. The contested notice was issued in the Assessee's name under Section 148 of the Act.
2. The petitioner alleges he never received notice. Due to the Assessee's failure to respond to these notices, a Show Cause Notice was issued and the Assessee was hit with an assessment order. In the name of the Assessee, notices under Section 221(1) and Section 271(1) (b) of the Act were also issued.
3. The respondent claims that a notice under Section 148 of the Act was sent to the Assessee's address, which is on file with the ITD. On the 30th of October 2019, a notice under Section 142 (1) was issued at the same location and served by the postal authorities. Because no answer to the messages was received, a Show Cause Notice dated 15.12.2019 was issued and sent again to the same address under Section 144 of the Act. On the 23rd of December 2019, an assessment order was issued under Section 144 of the Act, adding Rs.48,53,000 as an unexplained cash deposit under Section 69A of the Act. A Show Cause Notice was also served at the same address to start penalty proceedings under Sections 271(1)(c), 271(1)(b), and 271F.

DECISION OF THE CASE

1. The division bench of Justice Navin Chawla and Justice Manmohan held that because the notice under Section 148 of the Act was issued against a deceased person, it is **null and void**, and that all subsequent proceedings or orders, including the assessment order and subsequent notices, are liable to be set aside because they are equally tainted.