

## **Sec. 292B couldn't be invoked to cure a mistake of issuing notice in name of diff. entity: Delhi HC**

### **Facts of the case - AVS Infrabuild (P.) Ltd. V. Assistant Commissioner of Income-tax - [2023] (Delhi)**

Assessing Officer (AO) passed an order under section 148A(d), and subsequently, the assessee received a notice under section 148, which was in the name of a different entity. In the meantime, the AO, by a letter intimated the assessee that the notice had been issued to it. He further passed a reassessment order on the assessee and issued a demand and penalty notice.

Assessee challenged the notice before the Delhi High Court.

#### **Decision of the case :**

- The Delhi High Court held that the notice issued under section 148 had various errors, namely incorrect name and PAN of the assessee, wrong assessment year and document identification number, which shows that the notice issued under section 148 does not concern the assessee.
- If these defects were excised, quite clearly, nothing would remain of the notice, and it would cease to be a notice bearing the imprint of section 148.
- According to a straightforward interpretation of section 148, the Assessing Officer (AO) must, before conducting an assessment, reassessment, or re-computation under section 147, serve the assessee with a notice, along with a copy of the order issued if deemed necessary under clause (d) of section 148A.
- Therefore, the reassessment proceedings can only commence once notice under section 148 is issued. It is a step AO must take before he assumes jurisdiction, *inter alia*, for reassessing the case.
- Insofar as the reliance placed on section 292B was concerned, a mistake, which can be corrected under section 292B, should be such that if excised, it does not change the tenor and scope of the documents/proceedings referred to therein. Undoubtedly, there was a misstep on the part of AO since he has not assumed jurisdiction as per law.

Therefore, the impugned notice issued under section 148, the reassessment order, notices of demand and penalty, and the order issued under section 148A(d) deserve to be quashed.