

# **Gandamal Gopi Nath vs Commr. Of Income-Tax, United ... on 30 October, 1952**

**Equivalent citations: AIR1953ALL447, AIR 1953 ALLAHABAD 447**

**Author: V. Bhargava**

**Bench: V. Bhargava**

## **JUDGMENT**

Malik, C.J.

1. The following question has been referred to this Court under Section 66(1) of the Income-tax Act:

"Whether on the facts and the circumstances of the case, assessment proceedings started by the issue of the notice under Section 22(2) of the Income-tax Act on 9-4-45 which was served on 11-4-45 calling for a return of Income within 35 days and assessment completed on the basis of a return filed on 11-6-45 in pursuance to that notice was rendered invalid and illegal in law because a general notice under Section 22(1) of the Act had been issued at the end of April 1945 which allowed time for the filing of the similar return within 65 days of its issue?"

2. The question can be answered only in one way. The facts appearing from the 'Statement of the Case' and the appellate Order are that on 9-4-1945, the Income-tax Officer had issued a notice under Section 22(2) of the Income-tax Act giving the assessee 35 days' time for filing his return from the date of the service of the notice, i.e., 11-4-1945. A general notice under Section 22(1) of the Income-tax Act was, however, published in the newspapers giving the assessee a period of 65 days to file their return. On 11-6-1945, the assessee filed a return on the basis of which assessment was made by the Income-tax Officer. The mere fact that the time given in the notice under Section 22(1) of the Act had not expired on the date when the assessee filed his return on 11-6-1945, could not take away the jurisdiction of the Income-tax Officer to make the assessment on the basis of the return filed. The notice under Section 22(1) of the Act gave a maximum period of 65 days. It was open to the assessee to file his return before the expiry of that period if he so desired. The question whether the return was filed under Section 22(1) or 22(2) of the Act is immaterial in this case as the notice under Section 22(1) did not invalidate the notice under Section 22(2).

3. We, therefore, answer the question in the negative. The assessee must pay" the costs which we assess at Rs. 300/-.