Supreme Court Judgement on distinction between power to reassess and power to review – Judgement Courtesy TaxScan

The Section 147 and Section 148 does not empower the assessing officer to proceed with the reassessment merely because of change of opinion but requires proper tangible material. Also, the material must have rational nexus with the belief of the officer.

"*Section 147 of the Act does not allow reassessment merely because the AO has a change of opinion with regard to the interpretation of law differently on facts that were well within his knowledge even at the time of assessment, as doing so would give the AO the power of review, whereas Section 147 confers the power to reassess and not the power to review.*"

The Court explained that the expression "reason to believe" means cause or justification. The AO need not conclusively establish at the stage of issuing the notice that income has escaped assessment. However, there must be tangible material having a rational connection or live link with the formation of the belief that income has escaped assessment.

The bench explained that there is a conceptual distinction between the power to reassess and the power to review. Section 147 confers the former and not the latter.

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