

**D.N. Sood Vs. Ito**

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**SooperKanoon Citation :** [sooperkanoon.com/707682](http://sooperkanoon.com/707682)

**Court :** Delhi

**Decided On :** Apr-30-2003

**Reported in :** [2003]131TAXMAN304(Delhi)

**Appeal No. :** Crl. M.M. No. 1756 of 2003 30 April 2003

**Appellant :** D.N. Sood

**Respondent :** ito

**Advocate for Pet/Ap. :** Geetha Luthra, for the assessed; Avdesh Singh and; Santosh

**Judgement :**

ORDER

By an order dated 10-4-2003 proceedings under sections 82 and 83 of Cr. P.C. were directed to be initiated against the petitioners and notices under section 446 Cr. P.C. were directed to be issued to their respective sureties. That order is being assailed on behalf of the petitioner by way the present petition. It is noticed that the petitioners have not been appearing before the learned trial court for a period of about three years and consequently in order to secure their presence, processes under sections 82 and 83 of Cr. P.C. were directed to be issued against them.

2. Learned counsel for the petitioners submits that it was on account of fault on the part of their counsel to inform the petitioners to appear in person that they could

not appear before the learned trial court. It is pointed out that earlier the petitioners were exempted from personal attendance and were appearing through their counsel. The counsel representing them however omitted to inform them of the order that their personal attendance was required in the court. The petitioners are prepared to appear before the learned trial court.

3. Since the purpose of proceedings under sections 82 and 83 of Cr. P.C. is simply to secure the presence of the petitioners before the court, in view of their undertaking to attend the learned trial court in person, the order issuing process under sections 82 and 83 of Cr. P.C. is liable to be set aside. The petitioners are directed to appear in person before the learned trial court within two weeks and until then they shall not be arrested for being produced before the learned trial court in execution of any warrant of arrest or otherwise. They shall continue to be on previous bail and notices under section 446 of Cr. P.C. Issued to their respective sureties shall stand recalled. The petitioners shall be at liberty to make application seeking exemption from personal attendance on the dates of hearing and in the event of such an application being made, the learned trial court shall consider the same on merits and grant exemption if the personal attendance of the petitioners is otherwise not required for progress of the trial.

4. The petition stands disposed of in these terms.