IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Income Tax Appeal No.406 of 2008
Date of Order: 06.01.2015

M/s Indian Acrylics Ltd.

..Appellant

Versus

Commissioner of Income Tax and another

..Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Alok Mittal, Advocate,
for the appellant.

Mr. Rajesh Katoch, Advocate,
for the respondents.

RAJIVE BHALLA, J (Oral)

The assessee is before us, challenging order dated 29.11.2007 (Annexure A-3), passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'B". Chandigarh, for assessment year 2003-04, on the following substantial questions of law:-

"(i) *Whether in facts and circumstances of the case, the action of the authorities below in holding the Sale tax subsidy received by the appellant as a revenue receipt, when the same has been rightly held to fall under the capital receipt as laid down by the Hon'ble Supreme Court in K.C.P. Ltd. v. CIT(2000) 245 ITR 421(SC) is legally sustainable in the eyes* *of law?*

(ii) *Whether in the facts and circumstances of the case, the authorities below were correct in holding that merely because the subsidy was granted after the commencement of production became a revenue receipt is legally sustainable in the eyes of law?*

(iii) *Whether in fact and circumstances of the case, the action of the authorities below in acting on its own presumption without any legal basis and ignoring the various judicial precedents as laid down by the company is legally sustainable in the eyes of law?*

(iv) *Whether in fact and circumstances of the case, the action of the authorities below, the impugned orders Annexure A-1 and A-3 are legally sustainable in the eyes of law?"*

Counsel for the parties are *ad-idem* that in view of order dated 18.12.2014, passed in Income Tax Appeal No.146 of 2014 (***M/s Vardhman Acrylics Ltd. v. Commissioner of Income Tax, Ludhiana and another)***, the matter has to be remitted to the Tribunal.

We have heard counsel for the parties, considered the substantial questions of law, the judgement dated 18.12.2014 in ***M/s Vardhman Acrylics Ltd.***,(supra) and as we are satisfied that controversy in the present appeal, namely, the nature of sales tax subsidy i.e., whether it is a revenue or capital receipt is to be adjudged on the basis of the nature and purpose of the subsidy, has been remitted to the Tribunal in ***M/s Vardhman Acrylics Ltd.***, (supra), allowed the appeal, set aside the impugned order dated 29.11.2007 and remit the matter to the Tribunal, for adjudication afresh and in accordance with law.

Parties are directed to appear before the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, on 20.01.2015.

(RAJIVE BHALLA)
JUDGE

January 06, 2015 **(B.S.WALIA)**
nt **JUDGE**