IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-53-2013
Date of decision:- 09.04.2015

The Commissioner of Income Tax, Jalandhar-II, Jalandhar.

...Appellant

Versus

M/s Saroop Tanneries Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Vivek Sethi, Advocate,
for the appellant.

Mr. Ravish Sood, Advocate,
for the respondent.

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S.J. VAZIFDAR, A.C.J. (ORAL)

The appeal is liable to be dismissed only on the ground that it is not maintainable in view of the judgement of the Division Bench of this Court in *Rani Paliwal Vs Commissioner of Income Tax*, (2004) 190 CTR (P&H) 566. The Division Bench held that an appeal under Section 260A of the Income Tax Act, 1961 (in short the Act) is not maintainable against the order passed by the Tribunal under Section 254(2).

2. The Tribunal had passed an order dated 30.06.2010 in M.A. No. 46 (ASR)/2009. The Tribunal corrected a mistake on account of not having noticed the judgement of the Supreme Court in *CIT Vs M/s Amalgamations Private Limited* (1997) 226 ITR 188. The Tribunal expressly recorded that the applicability of the decision cannot be adjudicated under the provisions of Section 254(2), as the same is covered under Section 254(1) of the Act. The respondent agrees that as and when an order is ultimately passed under Section 254(1) in accordance with the order dated 30.06.2010 under Section 254(2), the same would be appealable under

Section 260A. The appellant, therefore, is not without a remedy in the event of the order under Section 254(1) being adverse to it.

3. The appellant filed M.A. No. 12 (ASR)/2011 under Section 254(2) of the Act against the order dated 30.06.2010 which was dismissed by the impugned order and judgement dated 19.11.2012. In view of what we have mentioned earlier, the appellant is in any event not without a remedy. However, this order in an application under Section 254(2) is not appealable.

4. Needless to add that the decision in ITA-472-2009, if decided before the Tribunal decides the matter under Section 254(1), would have its own effect.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

09.04.2015
Amodh