IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No.350 of 2014 (O&M)
DATE OF DECISION: 31.03.2015

Mohan Lal Bansal

…..Appellant

versus

Income Tax Officer, Ward-II(1), Faridabad

.....Respondent

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

Present: Mr. Sandeep Goyal, Advocate for the appellant

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE: (Oral)

This is an appeal against the order of the Income Tax Appellate Tribunal remanding the matter pertaining to assessment year 2007-08 to the Assessing Officer.

2. We are not inclined to interfere with the Tribunal's exercise of jurisdiction in remanding the matter for fresh consideration. It will be necessary for the Assessing Officer to determine whether the transactions of purchase by the appellant from the two entities are genuine or not.

3. Mr. Goyal submitted that the impugned order contains observations against the appellant. The apprehension is not well-founded. Firstly, the observations are only *prima facie*. If they were conclusive in nature, the Tribunal would have

itself decided the matter. All the contentions of the parties are obviously open before the Assessing Officer and in further proceedings. The proceedings, upon remand, would be decided on their merits uninfluenced by the *prima facie* observations of the Tribunal in the impugned order. Even issues such as whether the other two entities had discharged their onus regarding the genuineness of the transactions are kept open. It would also be open, for instance, for the appellant to contend that even assuming that they did not or do not establish the genuineness of their transactions, it may not effect the appellant’s case, if the appellant is otherwise able to establish the genuineness of his transactions.

4. The appeal is, therefore, disposed of but subject to the above clarifications. It is reiterated that the remand proceedings whether before the Assessing Officer or in any proceedings to challenge the decision of the Assessing Officer would be decided on their own merits uninfluenced by the observations of the Tribunal.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

31.03.2015 **(G.S. SANDHAWALIA)**
parkash* **JUDGE**