IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 421 of 2014 (O&M)
DATE OF DECISION: 22.04.2015

Punjab State Power Corporation Ltd. …..Petitioner

versus

Commissioner of Income Tax, Patiala and another .....Respondents

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

Present: Ms. Radhika Suri, Sr. Advocate,
with Ms. Rinku Dhaiya, Advocate,
for the appellant.

Ms. Savita Saxena, Advocate,
for the respondents.

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

It is agreed that the present appeal is covered by the decision of the Division Bench of this Court dated 20.03.2015 in the case of ***Punjab State Power Corporation Ltd. vs. Commissioner of Income Tax, Patiala, ITA No. 155 of 2014.*** The present appeal is, therefore, admitted on the following substantial questions of law:-

"i) Whether in facts and circumstances of the case the Income Tax Appellate Tribunal was correct in law in holding that the claim of deduction on account of payment of fringe benefit tax was not a bonafide claim?

ii) Whether in facts and circumstances of the case the Income Tax Appellate Tribunal was correct in law in holding that an erroneous claim made in ignorance of law would attract explanation 1 to Section 271(1)(c) of the Income Tax Act."

In view of the abovesaid judgment of the Division Bench, the questions are answered in favour of the assessee. The claim cannot be said to be mala fide. The present appeal is, therefore, allowed. The order of the Tribunal is set aside.

There should be no order as to costs.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

22.04.2015 **(G.S. SANDHAWALIA)**
shivani **JUDGE**