IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 163 of 2015 (O&M)

Date of Decision: 26.8.2015

Principal Commissioner of Income Tax, Faridabad

....Appellant.

Versus

Sh. Avtar Kukreja

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Mr. Tajender K. Joshi, Advocate for the appellant.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of ITA Nos. 163, 164 and 199 of 2015 as according to the learned counsel for the appellant the substantial questions of law involved in the appeals are identical. For brevity, the facts are being extracted from ITA No. 163 of 2015.

2. This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated 30.11.2010 (Annexure A-III) passed by the Income Tax Appellate Tribunal, Delhi Bench "A", New Delhi (hereinafter referred to as "the Tribunal") in ITA No. 775/DEL/2010 for the assessment year 2001-02, claiming the following substantial questions of law:-

> 1. On the facts and circumstances of the case and in law whether Ld. Member of Hon'ble ITAT have erred in law in deleting the addition made by the AO on the basis of valuation of immovable properties, since the reference to

registered valuer was made only when the details and value of properties owned by the assessee were not verifiable and the assessee had failed to file his return of income for 16 months, from the date of issue of statutory notices for filing of return of income in pursuance of search & seizure action.

2. On the facts and circumstances of the case and in law whether Ld. Member of Hon'ble ITAT are justified in not accepting the valuation made by the registered valuer who are the competent authorities for such purpose and who had made valuation of properties on the basis of approved rates of competent authorities.

3. On the facts and circumstances of the case and in law whether Ld. Member of Hon'ble ITAT are justified in not accepting the valuation made by the registered valuer who have followed the due procedure of law by providing opportunities and arriving at a value after consideration of all submissions and evidence submitted by the assessee at the time of said valuation of immovable properties.

3. The facts, in brief, necessary for adjudication as pleaded in the appeal are that the search and seizure operations were carried out at the premises of the assessee and his wife Smt. Meena Kukreja. Notices under Section 153A of the Act were served upon them to file their returns of income which they did. During the course of the assessments, the assessee and his wife filed affidavits that the income and properties shown in the return of Smt. Meena belonged to the assessee. The Assessing Officer finding that the properties have been acquired at a lesser figure by the assessee, referred the same for valuation to the

Valuation Officer. The Assessing Officer invited objections which the assessee filed in detail. The Assessing Officer vide assessment order dated 30.12.2008 (Annexure A-1) made additions of ₹ 14,69,000/- on account of filing wrong/inaccurate particulars of the income. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity "the CIT(A)"]. The CIT(A) vide common order dated 21.12.2009 (Annexure A-II) dismissed the appeals for the assessment years 2001-02 to 2006-07 and partly allowed for the assessment year 2007-08. Still dissatisfied, the assessee filed an appeal before the Tribunal who vide common order dated 30.11.2010 (Annexure A-III) allowed the appeals for the assessment years 2001-02, 2006-07 and 2007-08 and partly allowed the appeals for the assessment years 2002-03, 2003-04, 2004-05 and 2005-06. This gave rise to the revenue to approach this Court by way of instant appeal.

4. We have heard learned counsel for the appellant.

5. It is not disputed that ITA Nos. 92 and 94 of 2015 pertaining to the assessment years 2004-05 and 2006-07 arising from the same order raising similar issue have already been dismissed by this Court vide order dated 21.5.2015 holding that the findings are purely questions of fact. Accordingly, no substantial question of law arises in these appeals. The appeals are dismissed.

(AJAY KUMAR MITTAL)
JUDGE

August 26, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**

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AJAY KUMAR MITTAL, J.

For orders, see **ITA No. 163 of 2015 (Principal Commissioner of Income Tax, Faridabad v. Sh. Avtar Kukreja)**.

(AJAY KUMAR MITTAL)
JUDGE

August 26, 2015
gbs

(RAMENDRA JAIN)
JUDGE

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 199 of 2015 (O&M)

Date of Decision: 26.8.2015

The Principal Commissioner of Income Tax, Faridabad

....Appellant.

Versus

Sh. Avtar Kukreja

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Mr. Tajender K. Joshi, Advocate for the appellant.

AJAY KUMAR MITTAL, J.

1. Delay of 6 days in refiling the appeal is condoned.

2. For orders, see **ITA No. 163 of 2015 (Principal Commissioner of Income Tax, Faridabad v. Sh. Avtar Kukreja)**.

(AJAY KUMAR MITTAL)
JUDGE

August 26, 2015
gbs

(RAMENDRA JAIN)
JUDGE