IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 64 of 2015
Date of Decision:- 28.07.2015

Santosh Chaudhary ......Petitioner(s)

vs.

Commissioner of Income Tax, Chandigarh ......Respondent(s)

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

HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present:- Ms. Rinku Dahiya, Advocate,
for the petitioner.

Ms. Urvashi Dhugga, Advocate,
for the respondent.

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

The matter is covered against the respondents and in favour of the appellant/assessee by the judgment of the Division Bench of this Court in ***ITA No. 200 of 2013, C.S. Atwal vs. Commissioner of Income Tax, Ludhiana and another*** decided on 22.07.2015.

The questions of law raised in this case are re-framed on the lines of the questions framed by the Division Bench in the above said judgment.

The appeal is, therefore, admitted on the following substantial questions of law:-

i) "Whether the transactions in hand envisage a "transfer" exigible to tax by reference to Section 2(47)(v) of the Income Tax Act, 1961 read with Section 53-A of the Transfer of Property Act, 1882?

ii) Whether the Income Tax Appellate Tribunal, has ignored rights emanating from the JDA, legal effect of non registration of JDA, its alleged repudiation etc.?

iii) Whether "possession" as envisaged by Section 2(47)(v) and Section 53-A of the Transfer of Property Act, 1882 was delivered, and if so, its nature and legal effect?

iv) Whether there was any default on the part of the developers, and if so, its effect on the transactions and on exigibility to tax?

v) Whether amount yet to be received can be taxed on an hypothetical assumption arising from the amount to be received?"

The questions of law are answered in favour of the appellant/assessee and against the respondents. The appeal is accordingly allowed in the same terms as in *C.S. Atwal's case (supra)*.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

28.07.2015
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