IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 218 of 2013 (O&M)
Date of decision:- 11.08.2016

Commissioner of Income Tax (Central), Ludhiana ..Appellant

Versus

Smt. Satish Bala Malhotra and others ...Respondents

CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rajesh Katoch, Advocate for the appellant.

Mr. Pankaj Jain, Senior Advocate with
Mr. Sachin Bhardwaj, Advocate
Mr. Divya Suri, Advocate
Mr. Gaurav Mittal, Advocate for the respondents.

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

This is an appeal against the order of the Tribunal dismissing the appellant's miscellaneous application for rectification under Section 254 (2) of the Income Tax Act 1961. The matter pertains to the assessment year 2006-07. The application for rectification was in respect of the issue pertaining to deemed dividend. The appeal against the order sought to be rectified by the miscellaneous application was filed before this Court being ITA No. 232 of 2012. That appeal also raised other issues. As far as the issue of deemed dividend is concerned, the Division Bench by an interim order dated 28.10.2013 held that there was no reason to differ with the opinion recorded by the Tribunal because it was apparent that the deceased assessee was the owner of the property in his personal capacity and shareholder of the company as a Karta of his HUF and that the property was agreed to be sold by the assessee in his individual capacity and not as the Karta of the HUF. The Division Bench held that the Tribunal, therefore, rightly deleted the addition on account of deemed dividend. The Division Bench accordingly issue notice of motion in ITA No. 232 of 2012 only on the other issues. Incidentally, we disposed of the said appeal in respect of the other issues also by a separate order and judgment passed today.

In view of the order of the Division Bench dated 28.10.2013, this appeal would require to be dismissed in any event without going into the question as to the maintainability of the application for rectification before the Tribunal.

The appeal is accordingly dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(DEEPAK SIBAL)
JUDGE

11.08.2016
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No