

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : I. T. A. No. 441 of 2014

Date of Decision : July 04, 2016

The Commissioner of Income Tax, Faridabad Appellant

VS.

Smt. Anju Jindal

.... Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Tajinder K. Joshi, Advocate
for the appellant.

Mr. Sachin Bhardwaj, Advocate
for the respondent.

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

Invoking the provisions of Section 260-A of the Income Tax Act, 1961 (hereinafter referred to as – the Act), the present appeal has been preferred by the Revenue to challenge therein the order of the Income Tax Appellate Tribunal, Delhi Bench “A”, New Delhi (hereinafter referred to as – the Tribunal).

The matter in question pertains to the assessment year 2007-08.

In the appeal, the following question of law, among others, has

been raised :-

“Whether on the facts and in the circumstances of the case, the Tribunal was correct in law in upholding the decision of the Ld. CIT (A) in deleting the addition of Rs. 1,33,29,548/- made by the Assessing Officer on account of bogus purchases especially when the assessee failed to prove that purchases were genuine.”

The facts, in brief, which need to be noticed for adjudicating upon the present appeal, are that the Assessing Officer, after holding that the purchases from five creditors/vendors, the names of whom were tabulated in the assessment order, were bogus, ordered to disallow such purchases made by the assessee from those creditors. For arriving at that conclusion, the Assessing Officer noted that in spite of opportunity granted, none of the afore-referred five creditors/vendors had been produced by the assessee and no reason for the same had been offered.

The CIT (Appeals), Faridabad and the Tribunal, after examination of the entire record, inter alia, noted that for the assessment year in question, the assessee had declared sales of over Rs.2.17 crores, as also gross profit @ 2.69% against the sales of about Rs.1.16 crores with gross profit @ 2.98% for the previous year. The books of accounts of the assessee, which were duly audited as per provisions of the Act, were found to be not questioned by the Assessing Officer. Although the Assessing Officer ordered deletion of the purchases made from the afore-referred five creditors, he was found to have taken a self-contradictory stand of accepting

the total declared sales of the assessee of over Rs. 2.17 crores, as also the expenses debited to the profit and loss account, which were based on the purchases ordered to be disallowed by him. Moreover, the Tribunal noted that the assessee had fully co-operated in the proceedings before the Assessing Officer by giving details of the disputed creditors, but such information was not acted upon by the Assessing Officer in accordance with the prescribed procedure and was wrongly brushed aside by him only on the ground that the same had been provided at a late stage of the proceedings. The Assessing Officer was found to have the necessary particulars regarding the above referred five creditors, but for the reasons best known to him, he did not summon any of them. More importantly, the Tribunal noted that for all the purchases ordered to be disallowed by the Assessing Officer, payments had been made by the assessee through account payee cheques, which remained unquestioned by the Assessing Officer. The creditors, having been paid through account payee cheques could thus have easily been traced.

After appreciating the afore-referred rival contentions, the CIT (Appeals) and the Tribunal had concurrently upheld the assessee's contentions. These decisions essentially determine questions of fact and we find that out of them, no question of law, much less a substantial question of law, arises, requiring interference on our part and once that conclusion is arrived at by us, the only fate, that the present appeal deserves, is dismissal, which we accordingly order.

The other questions, so raised in the present appeal, being

dependent upon and being a consequence of the afore-reproduced question,
would resultantly meet the same fate.

Dismissed.

**(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(DEEPAK SIBAL)
JUDGE**

July 04, 2016
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