

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.103

**ITA No.316 of 2016 (O&M)
Date of decision: 10.11.2016**

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

versus

M/s Aggarwal Sales, Zirakpur Respondent

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

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

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S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

This is an appeal against the order of the Income Tax Appellate Tribunal remanding the matter to the Assessing Officer to decide some of issues afresh in respect of the Assessment Year 2007-08.

2. At a search conducted in the assessee's premises a document was found which contained certain notings in hand. The appellant contends that one of the entries therein in the sum of ₹96 lacs remained to be explained and that the amount was therefore, rightly added to the assessee's income. The CIT(Appeals) upheld the assessment order. The Tribunal, however, found that certain other documents especially a balance-sheet of 31.03.2005 ought to be considered and a fresh order ought to be passed thereafter. The Tribunal noted that the balance-sheet was already a part of the record of the revenue as it pertained to the earlier assessment year.

3. There is no ground for interfering with the discretion exercised by the Tribunal in remanding the matter. The impugned order rightly notes that the balance-sheet would be a relevant consideration and therefore, ought taken into account while considering the assessee's explanation for the said entry.

4. The appellant, however, is aggrieved by the directions issued by the Tribunal to the Assessing Officer. The apprehension is not well-founded.

5. The Tribunal has merely directed the Assessing Officer to decide the issue afresh in the light of the additional evidence. The findings in the order are not conclusive. The observations are merely prima facie. If they were conclusive there would have been no question of remanding the matter. Even the finding that the assessee had prima facie explained the addition made by the Assessing Officer is precisely that prima facie. If upon a consideration of all other facts and circumstances, the Assessing Officer finds that the addition ought to be made, he is always at liberty to do so.

6. The grievance that the order directs the Assessing Officer to follow only the judgment of this Court in *CIT versus Ravi Kumar, 294 ITR 78* is also not well-founded. The impugned order does not restrict the Assessing Officer to a consideration only of *Ravi Kumar's* case. The reference to *Ravi Kumar's* case is only illustrative. The Assessing Officer while deciding the issue afresh would have to consider the same in accordance with law after taking into consideration *Ravi Kumar's* case as well as any other relevant provisions of law and authorities.

7. The petition is accordingly dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(DEEPAK SIBAL)
JUDGE

November 10, 2016
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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No