IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-26015-2016

Date of decision: 27.04.2017

M/s Amco Industrial Enterprises Pvt. Ltd.

..... Petitioner

Versus

Deputy Commissioner of Income Tax, Circle-1, Ludhiana

..... Respondents

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

PRESENT: Mr. SK Mukhi and Mr. Rajiv Sharma, Advocates for the petitioner.

Mr. Rajesh Katoch, Advocate for the respondent-Revenue.

AJAY KUMAR MITTAL, J. (ORAL)

1. The petitioner has approached this Court under Article 226 of the Constitution of India, *inter alia* seeking quashing of the order dated 09.12.2016 (Annexure P-13) whereby the objections filed by the petitioner to the reopening of the assessment of the income tax under Section 148 of the Income Tax Act, 1961 (for short 'the Act') was disposed of and it was held that the Assessing Officer had the relevant material for forming a reasonable belief that income has escaped assessment and, therefore, the initiation of reassessment proceedings under Section 148 of the Act is in order.

2. Learned counsel for the respondent-Revenue has pointed out that since no interim order was granted to the petitioner by this Court, therefore, the Assessing Officer has framed the reassessment in pursuance

to the proceedings initiated under Sections 147/148 of the Act. It was also urged that the said order is an appealable order.

3. In view of the above, learned counsel for the petitioner did not dispute that the petitioner has the alternative remedy of appeal challenging the assessment order which was passed during the pendency of instant writ petition and also the initiation of proceedings for re-assessment under Sections 147/148 of the Act which have been impugned herein. He, however, prayed that sometime may be granted to the petitioner to file an appeal before the Appellate Authority and the same be not dismissed on the ground of limitation.

4. Accordingly, while disposing of the instant writ petition, we grant three weeks' time from today to the petitioner to file an appeal before the Appellate Authority wherein the petitioner shall be entitled to challenge the assessment order passed in pursuance to the proceedings initiated under Sections 147/148 of the Act and also the initiation of proceedings for re-assessment as sought to have been raised herein.

5. It is, however, clarified that if any such appeal is filed by the petitioner before the Appellate Authority within the stipulated time, the same shall not be dismissed on the ground of limitation.

6. The instant writ petition stands disposed of, accordingly.

(AJAY KUMAR MITTAL)
JUDGE

April 27, 2017
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**