IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA No.65 of 2016 (O&M)
Date of Decision: 09.05.2017

The Commissioner of Income Tax (TDS)-I, Chandigarh
----Appellant

Versus

M/s Punjab Infrastructure Dev. Boar ----Respondent

Coram: **Hon'ble Mr. Justice Ajay Kumar Mittal**
Hon'ble Mr. Justice Harinder Singh Sidhu

Present: Mr. Denesh Goyal, Sr. Standing Counsel for the appellant(s).

Mr. Deepak Aggarwal, Advocate for the respondent(s).

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Ajay Kumar Mittal, J.

This order shall dispose of four appeals, namely ITA Nos.65 of 2016, 69 of 2016, 97 of 2016 and 98 of 2016 as the learned counsel for the parties state that the common questions of law and facts are involved therein. However, for the sake of brevity the facts are being taken from ITA No.65 of 2016.

2. The revenue has filed the appeal No.65 of 2016 under Section 260A of the Income Tax Act, 1961 (for brevity 'the Act') against order dated 30.09.2015 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (for brevity 'the Tribunal') in ITA No. 789/Chd/2013 for the assessment year 2009-10. It has been claimed that the following substantial questions of law arise for determination of this Court:

> "(i) Whether the Hon'ble ITAT is right in law in deleting the penalties imposed u/s 271CA for non-collection of tax at source u/s 206C ignoring the fact that the assessee has committed default to collect the tax at source as required the provisions of Section 206C of the Income-tax Act, 1961.

(ii) Whether on the facts and circumstances of the case, the order of the Appellate Tribunal is contrary to the evidence and material on the record of the case and therefore, perverse.

(iii) Whether on the facts and circumstances of the case, the order of the Appellate Tribunal is suffering from non-application of mind and is unreasonable and arbitrary."

3. At the outset, learned counsel for the revenue has submitted that the Tribunal while deciding the appeals of the assessee vide impugned order dated 30.09.2015 in para 55 had relied upon its earlier decision, in the case of the assessee, which reads thus:

"…….ITA Nos.9/Chd/2013, 880/Chd/2013, 881/Chd/2013, 884/Chd/2013 (referred to above) for assessment years 2008-09, 2009-10, 2010-11 and 2011-12 respectively…."

4. It may be noticed that the revenue had filed the appeal against the aforesaid pronouncements decision bearing ITA No.73 of 2016 under Section 260A of the Act along with other connected appeals and the same were decided on 20.12.2016 whereby the impugned order was set aside and the matter was remanded back to the Tribunal for fresh decision. Accordingly, learned counsel for the revenue has stated that the order passed in the present appeals be also set aside and the matter be remanded to the Tribunal for fresh decision after affording an opportunity of hearing to the parties in accordance with law. However, this prayer was opposed by the learned counsel for the respondents.

5. After hearing learned counsel for the parties and perusing the records of the cases, in our opinion the present appeals deserve to be allowed as the Tribunal had adjudicated the appeal by relying upon its earlier decision as cited in para 3 above. Accordingly, the impugned orders dated 30.09.2015 passed by the Tribunal in each case are set aside and the matters are remanded to the Tribunal for fresh decision after affording an opportunity of hearing to the parties in accordance with law.

(Ajay Kumar Mittal)
Judge

(Harinder Singh Sidhu)
Judge

09.05.2017
Atul

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No