

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ITA No. 384 of 2016

Date of Decision : May 14, 2018

**The Commissioner of Income Tax (Exemptions),
Chandigarh Appellant**

Versus

Improvement Trust, Bathinda Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

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Present: Mr. Denesh Goyal, Senior Standing Counsel
for the appellant-Revenue.

Mr. K.L.Goyal, Senior Advocate with
Mr. Rohit Gupta, Advocate
for the respondent-Assessee.

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AJAY KUMAR MITTAL, ACJ. (Oral)

The Revenue is in appeal under Section 260A of the Income Tax Act, 1961 claiming that the following questions of law arise out of order dated 02.06.2016 passed by the Income Tax Appellate Tribunal (for brevity 'ITAT'), Amritsar Bench, Amritsar, in ITA No. 416 (Asr)/2013 for the Assessment Year 2008-09:-

- (i) Whether the ITAT has erred in law in ignoring the scope of proviso to Section 2 (15) of the Act, while deciding the cases.
- (ii) Whether the Hon'ble ITAT is right in law in wrongly deciding the issues and wrongly setting aside the

impugned order in favour of the assessee trust while conflicting from its own judgments in above cases which are even otherwise binding on it.

- (iii) Whether the ITAT is right in law while it failed to consider that above judgments e.g. PUDA vs. CIT and Jalandhar Development Authority vs. CIT have been followed by Tribunal of Amritsar Bench in Jammu Development Authority vs. CIT reported as (2012) 52 SOT ASR 153 and upheld the order of CIT in which Section 2 (15) of the Act w.r.t. “business, trade and commerce” has been interpreted, which judgment in Jammu Development Authority has been upheld firstly by Hon'ble J&K High Court in ITA No. 164 of 2012 vide its order dated 07.11.2013 and also by Hon'ble Supreme Court in Special Leave to Appeal © No. 4990 of 2014 vide its order dated 21.07.2014.
- (iv) The department had already filed appeal before Hon'ble Punjab & Haryana High Court, Chandigarh against the order u/s 143 (3) for the A.Y. 2009-10 as well as the order of 12AA(3) of Hon'ble ITAT Amritsar Bench, Amritsar in the same case.

At the outset, learned counsel for the parties are *ad idem* that the issues raised in this appeal are covered by the decision of this Court in ***The Tribune Trust v. Commissioner of Income Tax and another*** and ***Commissioner of Income-Tax (Exemption) v. Improvement Trust, Moga*** [2017] 390 ITR 547 where the similar issues have been decided against the

Revenue and in favour of the Assessee.

Accordingly, this appeal is dismissed.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

14.05.2018
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Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No