IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 81 of 2016
Date of Decision : May 14, 2018

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

Versus

M/s Pathankot Improvement Trust, Pathankot.......... Respondent

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

...

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

Mr. Rohit Sud, Advocate for the respondent-Assessee.

...

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 10.09.2015 passed by the Income Tax Appellate Tribunal (for brevity 'ITAT'), Amritsar Bench, Amritsar, in ITA No. 200 (Asr)/2010 for the Assessment Year 2005-06:-

(i) Whether the Hon'ble ITAT has erred in law in ignoring the specific directions of this Hon'ble Court to discuss 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 by ignoring the ratios laid down in the cases of PUDA and JDA (to the extent that the Improvement trusts carry out land development in a similar manner as development authorities do).

(iii) Whether the 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.

(iv) Whether the Hon'ble ITAT is right in law while 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 s (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 (C) No. 4990 of 2014 vide its order dated 21.07.2014.

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 Commissioner of Income-Tax (Exemptions) Chandigarh v. M/s Pathankot Improvement Trust, Pathankot,*** ITA No. 89 of 2016 decided on

23.12.2016, 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
rupi

Note: Whether speaking/reasoned Yes / No
Whether Reportable: Yes / No