IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA No. 316 of 2017 (O&M)
Date of decision: 10.5.2018

Principal Commissioner of Income-tax, Bathinda
.. Appellant

v.

M/s Tehal Singh Khara & Sons
.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Denesh Goyal, Advocate for the appellant.

...

Rajesh Bindal J.

The Revenue is in appeal against the order dated 25.7.2016 passed by the Income-Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal') in ITA No. 181 (Asr)/2016 by raising the following substantial questions of law:

“(i) Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was in error in deleting the penalty imposed u/s 271E by adopting reasoning that would negate the provisions of the stature and render section 269T of the I.T. Act a nullity?

(ii) Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was in error in applying of the provisions of section 273B in a manner that would

Manoj Kumar
2018.05.28 08:34
I attest to the accuracy and
authenticity of this document
High Court,Chandigarh

override the provisions of section 269T of the Act and violate the doctrine of harmonious construction ?

(iii) Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was in error in holding that exclusion from the riguors of section 269T of the Act could be provided, if at all, in case of only bonafide transactions and circumstances that would have to be established in each case and no such circumstances were established in the instant case?

(iv) Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was in error in not taking into consideration the judgment of Hon'ble Punjab & Haryana High Court in the case of M/s Charan Dass Ashok Kumar Vs. CIT, 365 ITR 367 and in the case of Auto Piston Mfg. Co. (P) Ltd., Vs CIT, 355 ITR 414 wherein it was held that Hon'ble Court, under similar circumstances that where respondent failed to establish that there was reasonable cause in repayment loan in cash, the action of the AO imposing penalty u/s 271E was justified and in failing to appreciate that the ratio of these judgments applied to the instant case?"

Learned counsel for the Revenue fairly submitted that through the impugned order passed by the Tribunal, two appeals were decided. ITA No. 248 of 2017—Principal Commissioner of Income-Tax, Bathinda v. M/s Tehal Singh Khara & Sons filed by the Revenue in ITA No. 180/Asr/2016, which was the other appeal has already been dismissed by this court vide

Manoj Kumar
2018.05.28 08:34
I attest to the accuracy and
authenticity of this document
High Court,Chandigarh

order dated 17.7.2017.

For the detailed reasons recorded in the aforesaid order, nothing survives in the present appeal. The same is, accordingly, dismissed. Consequently, the application for condonation of delay in re-filing the appeal is also dismissed.

(Rajesh Bindal)
Judge

(Deepak Sibal)
Judge

10.5.2018
mk

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

Manoj Kumar
2018.05.28 08:34
I attest to the accuracy and
authenticity of this document
High Court,Chandigarh