IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 73 of 2018
Date of decision: 09.07.2018

The Commissioner of Income Tax (Exemptions), Chandigarh.

……Appellant

Vs.

M/s Amritsar Improvement Trust, C-Block, Ranjit Avenue, Amritsar (PAN AAJFA4492K)

…..Respondent

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Rishabh Kapoor Advocate and Mr. Saurabh Kapoor, Advocate for respondent-assessee

Ajay Kumar Mittal,J.

1. This order shall dispose of ITA Nos. 73 and 81 of 2018 as according to the learned counsel for the appellant-revenue, the issues involved in both the appeals are identical. However, the facts are being extracted from ITA No. 73 of 2018.

2. ITA No. 73 of 2018 has been preferred by the appellant-revenue under Section 260A of the Income Tax Act, 1961 (in short, "the Act") against the order dated 11.08.2017, Annexure A.4, passed by the Income Tax Appellate Tribunal, Amritsar Bench, (in short, "the Tribunal") in I.T.A. No.656/ASR/2015 for the assessment year 2005-06, claiming following substantial questions of law:-

> " i) Whether on the facts and circumstances of the case in law, the Hon'ble ITAT is right in upholding the decision of learned CIT(A) in deleting the penalty under Section 271(1)(c) of the Act, as the assessee has furnished inaccurate particulars of income which was detected by the Assessing Officer during the course of assessment proceedings?
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> ii) Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT is correct in deleting the penalty on the basis of deletion of quantum addition particularly when the revenue has filed SLP against the decision of the Hon'ble High Court on the issue of quantum addition which is pending before the Apex Court?"

3. A few facts relevant for the decision of the controversy involved as narrated in ITA No. 73 of 2018 may be noticed. The respondent-assessee filed its return of income on 31.10.2005 declaring loss of ₹ 261.67 lacs. The case was assessed under Section 143(3) of the Act on 25.06.2008 at a total income of ₹ 99,11,57,589/-. While making the assessment, the Assessing Officer disallowed the exemption under Section 11(1) of the Act by treating the activities of the assessee trust as business activities. Vide order dated 25.06.2008, Annexure A.1, the Assessing Officer also initiated penalty proceeding under Section 271(1)(c) of the Act for furnishing inaccurate particulars of the income. Vide order dated 29.08.2014, Annexure A.2, the Assessing Officer imposed penalty amounting to ₹ 30,34,89,496/-. Aggrieved by the order, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [CIT(A)]. Vide order dated 08.09.2015, Annexure A.3, the CIT(A) allowed the appeal filed by the assessee and deleted the penalty by setting aside the orders passed under Section 271(1)(c) of the Act. Aggrieved by the order, the appellant-revenue filed appeal before the Tribunal. Vide order dated

11.08.2017, Annexure A.4, the Tribunal dismissed the appeal. Hence the instant appeals by the appellant-revenue.

3. We have heard learned counsel for the parties.

4. It is not disputed by the learned counsel for the parties that this Court has already dismissed the quantum appeal in the case of the assessee filed by the revenue being ITA No. 76 of 2016 ***(The Commissioner of Income Tax (Exemptions), Chandigarh Vs. M/s Amritsar Improvement Trust, Amritsar)*** vide order dated 23.12.2016. Consequently, no ground for levy of penalty has been made out. As a result, both the appeals are dismissed.

(Ajay Kumar Mittal)
Judge

July 09, 2018 **(Avneesh Jhingan)**
'gs' **Judge**

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