IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 86 of 2010 (O&M)
Date of Decision: 27.07.2020

DEVINDER SINGH PANNU

...Appellant

VS.

THE INCOME TAX OFFICER, WARD 1(3), CHANDIGARH, AYAKAR BHAWAN, SECTOR 17, CHANDIGARH.

….Respondent

CORAM: ***HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.***
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Ms. Munisha Gandhi, Senior Advocate with
Mr. Viraj Gandhi, Advocate,
for the appellant.

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RAKESH KUMAR JAIN, J. (Oral)

The appellant has preferred this appeal under Section 260A of the Income Tax Act, 1961 (for short "the Act") for setting aside the order dated 09.01.2017 passed by the Income Tax Appellate Tribunal, Chandigarh in ITA No. 322/CHD/2016 whereby the appeal filed by the appellant was dismissed in default though as per Rule 24 of the Income Tax Appellate Tribunal Rules, 1963 (for short "the Rules"), the appellate authority was required to decide the appeal on merits.

In support of her contentions, counsel for the appellant has relied upon an order passed by the Division Bench of the Delhi High Court in the case of "***Om Prakash Sangwan*** Vs. ***Income Tax Officer, Ward – 33(4), New Delhi.***" *[2018] 94 taxmann.com 394 (Delhi).*

Notice of motion.

At this stage, Mr. Yogesh Putney, Advocate has accepted notice on behalf of the respondent and submitted that the appellant has a remedy in view of Rule 24 proviso to approach the Tribunal for restoration of the appeal which was dismissed for non-prosecution. He also referred to the judgment relied upon by the appellant and submitted that in the said case, the Delhi High Court has relegated the then appellant to avail his remedy of filing an application to the Tribunal for the purpose of restoration of the appeal.

We have heard counsel for the parties and after perusing the available record are of the considered opinion that the appellant has the statutory remedy of filing an application for restoration of appeal which was dismissed for non-prosecution and in view of Rule 24 of the Rules, there is no period of limitation prescribed within which the aggrieved party can approach the Tribunal for the purpose of restoration.

In view of the aforesaid facts and circumstances, present appeal has been found misconceived and the same is hereby dismissed as such but the appellant is granted liberty to file an application, if so advised, for restoration of the appeal which has been dismissed in default by the impugned order dated 09.01.2017.

[RAKESH KUMAR JAIN]
JUDGE

July 27, 2020
Ess Kay

[ASHOK KUMAR VERMA]
JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No

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