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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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ITA No.91 of 2019
Date of Decision: 27.02.2020

The Pr. Commissioner of Income Tax, Gurgaon

Appellant

Versus

Prahalad Singh

Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tajender K. Joshi, Sr. Standing Counsel with
Mr. Vikram Bali, Jr. Standing Counsel
for the appellant.

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AJAY TEWARI, J. (Oral)

[1] This appeal has been filed under Section 260A of the Income Tax Act, 1961 [for brevity 'the Act'] against the order dated 11.05.2018 passed by the Income Tax Appellate Tribunal, New Delhi, whereby appeal filed by the assessee was allowed. The assessment year involved is 2011-12.

[2] Brief facts of the case are that the assessee had offered some income for tax. The assessment was complete under Section 143(1) of the Act but subsequently notice under section 148 was given. What weighed with the Tribunal was that reasons recorded under Section 147 of the Act to reach the belief that income and escaped assessment was unsigned and undated and consequently, the Tribunal set aside the proceedings on this ground.

[3] Following questions have been framed:

"A. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was justified in quashing the assessment order passed in re-assessment by treating the notice issued u/s 148 of the Act as invalid on the ground that reasons recorded are unsigned which is not justified because assessee neither obtained copy of reasons recorded nor submitted any objection against validity of notice u/s 148 of the Act as per guidelines contained in decision of Hon'ble Supreme Court in the case of M/S GKN Driveshafts (India) Ltd. Vs. Income Tax Officer 259 ITR 19 (SC) before Assessing Officer before completion of re-assessment proceedings?

B. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was justified in quashing the reassessment proceedings without appreciating the fact that the assessee himself admitted long term capital gain in the return of income filed in compliance to notice issued u/s 148?

C. Whether on the facts and in the cicumstances of the case, the Hon'ble ITAT was justified in admitting the fresh evidence as well as accepting the copy of reasons obtained by the assessee under RTI Act, 2005 on 02/06/2016 after completion of re-assessment on 31/03/2016 which is a personal information under RTI Act, 2005 and not a documentary evidence?

D. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was justified cin accepting assessee's argument that land sold during relevant previous year was not a capital asset without appreciating the fact that the assessee himself had admitted long terms capital gain on sale of such land in the return filed u/s 148 and it was a capital asset?"

[4] The primary question which has to be decided is Question A.

[5] We find that the order of the Tribunal is correct. The mere fact that reasons exist on the file cannot sanctify them and the only way to ascertain whether the requirements under Section 147 of the Act have been met out would be at the very least that the assessing officer sign the same. Without signatures, the document becomes anonymous piece of paper to which no credence can be given. The action under Section 147 of the Act is quasi-judicial action and if it is permitted that such action can be done as anonymously, it would have very serious consequences in other cases also. If the Court accepts such pieces of paper who can tomorrow stop an assessee from substituting a signed paper with another unsigned paper?

[6] Moreover the reasons are undated, hence do not establish that they were recorded prior to issuance of notice.

[7] In the circumstances, the appeal is dismissed.

[8] Since the appeal is dismissed, the pending application, if any, stands disposed of.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

February 27, 2020

pankaj baweja 1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No