**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**209-3** **ITA-846-2008 (O&M)**
Date of decision:- 02.02.2023

The Commissioner of Income Tax I, Chandigarh
.... Appellant

Vs.

M/s Punjab State Warehousing Corporation.

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**
**HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Ms. Gauri Neo Rampal, Senior Standing Counsel with
Mr. Aditya Mehtani, Junior Standing
Counsel for the appellant.

Mr. B.M. Monga, Advocate and
Mr. Rohit Kaura, Advocate for the respondents.

***Ritu Bahri, J. (Oral)***

Learned counsel for the appellant has referred to the orders passed by this Court in ITA No. 826 and 848 of 2008, titled as ***The Commissioner of Income Tax-I, Chandigarh Vs. M/s Punjab State Warehousing Corporation Limited,*** wherein Section 14-A of the Income Tax Act, 1961 (for short 'the Act'), was inserted in Chapter IV of the Act by Finance Act, 2001 with retrospective effect from 01.04.1962 was considered.

As per the abovesaid provision, an assessing officer cannot open the assessment under Section 147 of the Act for any assessment year prior to assessment year 2001-2002 for this purpose or pass any order under Section 154 of the Act rectifying any assessment order for prior years to disallow such expenditure. The object and purpose of the proviso is to ensure that the retrospective amendment is not made as a weapon to reopen past settled cases which have attained finality.

In the above said judgments it was observed that the assessment orders had been passed under Section 143(3) of the Act and therefore, proviso to Section 14-A of the Act was not attracted and provisions of Section 14-A having applicability retrospectively w.e.f. 01.04.1962 would thus be applicable to the assessment years in question. In this backdrop, after setting aside the order of the tribunal, the matter was remanded back to decide it afresh in accordance with law after hearing the parties.

In the present case, the Tribunal had dismissed the appeal of the revenue vide order dated 24.12.2007, Annexure A-3 on the ground that the Section 14-A proviso debar the assessing officer to reassess under Section 147 of the Act.

The assessment order has been passed under Section 143(3) of the Act, Annexure A-1 and thereafter order was passed by CAT(Appeals) on 27.03.2006, Annexure A-2 and tribunal's order is dated 24.12.2007, Annexure A-3. Since the order was not passed under Section 147 of the Act, as per the judgment referred to above the proviso to Section 14-A would not be applicable.

In the present case, the revenue filed a review application, which was allowed vide order dated 07.02.2020, whereby the present ITA No. 846 of 2008 was restored to its original number.

The main appeal is now listed for final disposal. Similar issue has come up for consideration before this Court in ITA Nos. 826 and 848 of 2008, titled as ***The Commissioner of Income Tax-I, Chandigarh Vs. M/s Punjab State Warehousing Corporation Limited*** and the present case is squarely covered by the above said judgments, present appeal is allowed, impugned order dated 24.12.2007, Annexure A-3 is set aside and matter is remanded back to the Tribunal to decide afresh in accordance with law after hearing the parties.

**( RITU BAHRI )**
**JUDGE**

**( MANISHA BATRA )**
**JUDGE**

**02.02.2023**
pooja saini

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