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

**240** **ITA-448-2019** (O&M)
Date of decision:-24.07.2023

**RAJEEV AGGARWAL**

.... Appellant

VS

**PRINCIPAL COMMISSIONER OF INCOME TAX, ROHTAK**

...Respondent

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

Present: Mr. Rohit Sud, Advocate
Ms. Kuljeet Kaur, Advocate for the appellant.

Ms. Gauri Neo Rampal, Senior Standing Counsel
for the respondent.

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

The present appeal has been filed by the appellant against the order dated 19.06.2018, Annexure A-1 and order dated 03.05.2019, Annexure A-14 passed by the Income Tax Appellate Tribunal, Delhi Bench ‘E’ New Delhi.

The grievance of the appellant, in this appeal is that vide order dated 09.02.2017, the respondent had remanded the case back to the Assessing Officer. However, an observation in this order that ‘addition of Rs. 1,47,29,502 is warranted’ reflects that the Commissioner has already proceeded that this addition should be made by the Assessing Officer at the time of remanding the case back. A perusal of para 5 of Annexure A-12 shows that the Commissioner had observed that during the revisional proceedings, the figures of sale purchase have been fabricated and it was not substantiated with any document and in this backdrop, order under Section 143(3) of Income Tax Act, 1961 dated 30.01.2015, passed by the Assessing Officer is held to be erroneous. Even if this addition of Rs.1,47,29,502/- is not to be taken into account, the very fact that the information was fabricated and direction given to the Assessing Officer to recompute the income tax was a correct order.

Learned counsel for the parties have informed that pursuant to the order dated 09.02.2017, a fresh order has already been passed by the Assessing Officer on 18.12.2017 and the appellant had filed an appeal against that order.

This appeal is being disposed of by observing that the authorities will take into account the documentary evidence and then on the basis of documentary evidence, the appellate authority can examine the issue.

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

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

24.07.2023
pooja saini

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No