IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115 ***2023:PHHC:145570-DB***

ITA-43-2023 (O & M)
Date of Decision: 16.11.2023

Pr. Commissioner of Income Tax-1, Chandigarh .....Appellant(s)

Versus

Sushma Bansal ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Ms. Pridhi Jaswinder Sandhu, Jr. Standing Counsel, for the appellant.

G.S.SANDHAWALIA, J. (Oral)

1. The present appeal has been filed under Section 260A of the Income Tax Act, 1961 (in short 'the Act') against the order of the Income Tax Appellate Tribunal dated 26.07.2022 (Annexure A-5) whereby, while dismissing the miscellaneous application filed under Section 254(2) of the Act, the Tribunal noticed that the prayer that the case of the assessee should have been entertained on the basis of the audit objection which had never been brought to the notice of the Bench on an earlier occasion and, therefore, the earlier order dated 23.11.2021 as such did not suffer from any mistake apparent on record which was sought to be rectified. Vide the said order, as noticed, on account of the low tax effect, the appeal had been dismissed by noting that before the ITAT, the tax effect was less than Rs.50,00,000/- and that Circular No.3 of 2018 dated 11.07.2018 read with Circular No.17 of 2019 would be applicable.

2. In the present appeal also, it is admitted that the tax effect for the assessment year 2012-13 would be only Rs.8,93,540/- and it would, thus, be less than the monetary limit. However, it has been argued by counsel for the

revenue that there is an exception carved out in clause 10(c) which would make the present appeal maintainable wherein it is provided that in case of revenue audit objections, if accepted by the department, the issues have to be contested on merits.

3. It is not disputed that by Circular No.17 of 2019 now issued by CBDT and the monetary limit as such before this Court has been enhanced to Rs.1,00,00,000/- from Rs.50,00,000/-.

4. Keeping in view the above, we are of the considered opinion that the whole purpose of the said circulars are for reducing the litigation before the Appellate Forums including the Income Tax Appellate Tribunal, High Courts and the Apex Court. By pleading an audit objection, the department as such cannot over-come the circulars and frustrate the purpose.

5. Resultantly, we are of the considered opinion that keeping in view the circular itself issued by the Revenue, the present appeal is absolutely misconceived and is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

16.11.2023 (LAPITA BANERJI)
shivani JUDGE

Whether reasoned/speaking Yes
Whether reportable No