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

***CWP-18648-2023(O&M)***
***Date of Decision: 29.02.2024***

***M/s. AJAY ELECTRONICS, DHANGU ROAD, PATHANKOT***
*……..Petitioner*

*V/s.*

***PRINCIPAL COMMISSIONER OF INCOME TAX-1, AAYAKAR BHAWAN, MAQBOOL ROAD, AMRITSAR, DISTRICT AMRITSAR.***
*……..Respondent*

***CORAM:*** ***HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA***
***HON'BLE MRS. JUSTICE SUDEEPTI SHARMA***

Present: Mr. Tarsem Lal, Advocate for the petitioner.

None for the respondent.

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***SANJEEV PRAKASH SHARMA, J. (Oral)***

**1.** The petitioner by way of this Writ Petition has approached this Court on the basis of order sheet drawn in the pending Appeal filed before the Income Tax Appellate Tribunal by the Divisional Commissioner of Income Tax, Circle VI, Pathankot from which it would be apposite to note as under:-

> *"Ld. AR seeks liberty to approach to the Hon'ble High Court for the purposes/directions for admission of additional legal grounds/supporting the order of CIT (A) in terms of Rule 27. The liberty as sought is granted. Now to come up in due course."*

**2.** It is noticed that the Appeal pending before the Appellate Tribunal is in terms of the judgement passed by this Court earlier in ITA No.286 of 2014 decided on 15.09.2016 titled as ***Commissioner of Income Tax, II, Amritsar*** Vs. ***M/s. Ajay Electronics***.

**3.** While deciding the aforesaid case, this Court neither conformed to the observations of the Commissioner nor the order passed by the Tribunal and directed the Tribunal to take a fresh decision on merits by remanding the case to it. It observed that the Tribunal was the final fact finding authority and has failed to properly analyze the evidence on record. The Commissioner Income Tax order granting deletion of Rs.1,70,000/- from the income of the assessee was not approved by this Court and the same was set aside. Thus, it was open for the petitioner to take any plea in support of the order of the CIT while the case was being heard by the Tribunal upon remand.

**4.** In the present Writ Petition, taking up the plea that the Tribunal ought to have allowed him to raise additional legal grounds in support of the order passed by the CIT in terms of Rule 27 of the Income Tax Rules, however, the Tribunal has failed to take notice of his submissions, and therefore, he moved an application seeking liberty to approach this Court for the purpose.

**5.** In our considered view, the judgment passed by the High Court dated 15.09.2016 was passed after hearing both the parties. All the legal submissions raised before the Court were examined. The liberty sought for by the petitioner amounts to seeking a review of the order passed by the High Court earlier dated 15.09.2016 which cannot be allowed in a separate set of proceedings.The plea taken by the petitioner is nothing but an attempt to forestall the proceedings before the Income Tax Appellate Tribunal which cannot be appreciated.

**6.** The present Writ Petition is a clear case of abuse of process of Court, therefore, the same is dismissed with a cost of Rs.20,000/- to be deposited by the petitioner with the Legal Services Committee, High Court.

**7.** It is made clear that the Tribunal shall decide the Appeal on merits as directed earlier by the Court.

**8.** All pending applications filed in this case shall stand disposed of accordingly.

**[SANJEEV PRAKASH SHARMA]**
**JUDGE**

**February 29, 2024**
*Ess Kay*

**[SUDEEPTI SHARMA]**
**JUDGE**

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|---|---|---|---|---|
| *Whether speaking / reasoned* | : | *Yes* | / | *No* |
| *Whether Reportable* | : | *Yes* | / | *No* |