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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-2717-CII-2020 IN/AND
ITA-203-2008 (O&M)
Date of Decision: 29.02.2024

COMMISSIONER OF INCOME TAX, FARIDABAD

........Appellant

V/s.

SH. NAVEEN VERMA

........Respondent

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

Present: Mr. Varun Issar, Advocate for the appellant.

Mr. Gaurav Singla, Advocate for the respondent.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. Learned counsel for the appellant submits that with regard to the same assessee, for the assessment block period i.e. 01.04.1988 to 16.04.1999, the issue was examined by this Court in the case of ***Commissioner of Income Tax*** Vs. ***Naveen Verma;*** *[2012] 346 ITR 100 (P&H)* and after examining the provisions, it held that the principles of natural justice will have application with regard to the proceedings which may be conducted by the Authorities. However, it held that failure of giving notice for a period less than 15 days would not vitiate the assessment in following terms:-

> *"11. We are of the view that the Tribunal erred in concluding that failure to give notice of 15 days will vitiate the assessment itself without considering the prejudice to the assessee. Total absence of notice may be on a different footing but if notice is duly served, the assessee can either avail of the statutory time for filing of the return irrespective of shorter period mentioned in the notice or*

can be given fresh opportunity if it is held that the assessee suffered prejudice on account of shorter period mentioned in the notice. In any situation, it is not permissible to quash the assessment proceedings merely on the ground that the period mentioned in the notice was lesser than the statutory period specified under section 158BC(a).

12. In view of the above legal position, the questions raised are answered in favour of the Revenue. The appeals are allowed. The order of the Tribunal are set aside and the matters are remanded to the Tribunal for fresh decision on the merits in accordance with law."

2. In view of the above, learned counsel for the appellant submits that the present Appeal may also be decided in the same terms by remanding the same with a request to direct the concerned Authority i.e. the Tribunal to take fresh decision on merits.

3. In the present case, the appellant has challenged the order dated 16.11.2006 passed by the Income Tax Appellate Tribunal bearing in ITA No.IT(SS)A No.90/Del./2006, relying upon the order passed by the Tribunal which was a subject matter in the case of ***Commissioner of Income Tax*** (Supra), the said Appeal was decided.

4. Taking note of the above, this Court accedes to the request made by learned counsel for the appellant. Therefore, we allow the present Appeal and remand the matter back to the ITAT to decide the same afresh keeping in view the observations made by this Court in the case of ***Commissioner of Income Tax*** (Supra).

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

[SANJEEV PRAKASH SHARMA]
JUDGE

February 29, 2024
Ess Kay

[SUDEEPTI SHARMA]
JUDGE

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