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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18520-2024 (O&M)
Date of Decision:05.08.2024

VIKAS JAIN ……..*Petitioners (s)*

V/s.

INCOME TAX OFFICER, WARD-4, AMBALA AND OTHERS
………*Respondent(s)*

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. B.M. Monga, Advocate, with
Mr. Rohit Kaura, Advocate and
Mr. Rajiv Sharma, Advocate
for the petitioner.

Mr. Saurabh Kapoor, Senior Standing Counsel with
Ms. Pridhi Jaswinder Sandhu, Junior Standing Counsel
for the respondents.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. Notice of motion.

2. Mr. Saurabh Kapoor, Senior Standing Counsel, accepts notice on behalf of the respondents.

3. Learned counsel for the petitioner submits so far as challenge to *vires* to explanation 2 (iv) to Section 148 of the Income Tax Act, 1961, the same may be left open and the case of the petitioner can be disposed of in terms of judgment passed by the Coordinate Bench in CWP-15745-2024, titled as *Jatinder Singh Bhangu vs. Union of India and others*, decided on 19.07.2024.

4. Learned counsel submits that he does not press the other grounds in the present petition.

5. In CWP-21509-2023, titled as ***<u>Jasjit Singh</u>*** Vs. ***<u>Union of India and Others</u>*** and other bunch of petitions, decided by us on 29.07.2024, we have also concurred with the judgment passed by the Coordinate Bench in CWP-15745-2024 (Supra) and held as under:-

> *"18. Keeping in view the law laid down by the Coordinate Bench (supra), notices issued by the JAO under Section 148 of the Act, 1961 and the proceedings initiated thereafter without conducting the faceless assessment as envisaged under Section 144B of the Act, 1961, have been found to be contrary to the provisions of the Act, 1961 and accordingly notices dated 28.02.2023, 16.03.2023, 20.03.2024 and 30.03.2023 and order dated 30.03.2023, are set aside for want of jurisdiction.*
>
> *19. The respondents-revenue would be, however, at liberty to follow the procedure as laid down under the Act, 1961 and proceed accordingly, if so advised.*
>
> *20. All the writ petitions are allowed. The interim order passed by the Court shall stand merged with the present order."*

6. In view thereof, the Writ Petition is allowed and order/notice dated 27.03.2024 and 30.03.2024 are set aside. The observations and order passed above shall apply *mutatis mutandis* to the present case. However, the respondents-revenue would be, however, at liberty to follow the procedure as laid down under the Income Tax Act, 1961 and proceed accordingly, if so advised. It is made clear that challenge to *vires* to explanation 2(iv) to Section 148 of the Income Tax Act, 1961, is left open for proper adjudication.

7. Pending applications, if any, shall stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[SANJAY VASHISTH]
JUDGE

August 5, 2024
Ess Kay

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