124

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18529-2024 (O&M)
Date of Decision:05.08.2024

ANUJ BANSAL ……..*Petitioners (s)*

V/s.

INCOME TAX OFFICER, WARD-1, KAITHAL 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.

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

*****

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Notice of motion.

2. Ms. Gauri Neo Rampal, Senior Standing Counsel, accepts notice on behalf of the respondents.

3. Learned counsel for both the sides are *ad idem* that the issue raised in these connected Writ Petitions stands finally adjudicated by this Court vide order dated 29.07.2024 in a bunch of Writ Petitions in which the lead case is ***CWP-21509-2023*** titled as ***Jasjit Singh*** Vs. ***Union of India and Others,*** whereby this Court has held the notice issued by the jurisdictional Assessing Officer as unjustified.

4. The Court has passed the following order:-

*"**14** xxx xxx xxx xxx*

***15** xxx xxx xxx xxxx*

16. *We are in agreement with the view taken by the Coordinate Bench and hold that such circular or instructions by the Board could not have been issued to override statutory provisions or to make them otiose or obsolete. Legislative enactments having financial implications are required to be followed strictly and mandatorily. By exercising the powers contained in Sections 119 and 120 of the Act, 1961 as well as Section 144B (7 & 8), the authorities cannot be allowed to usurp the legal provisions to their own satisfaction and convenience causing hardship to the assessees. It also leaves confusion in the minds of the taxpayers. In the opinion of this Court, instructions and circulars can be issued only for the purpose of supplementing the statutory provisions and for their implementation.*

17. *In view of the aforesaid discussion, there is no occasion to distinguish or take a different view as suggested by the learned counsel for the revenue from what has already been held by the Coordinate Bench.*

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.*
>
> ***21.*** *xxx xxx xxxx*
>
> ***22.*** *xxx xxx xxxx"*

5. In view of the above, we allow this Writ Petition in the aforesaid terms. The observations and order passed above shall apply *mutatis mutandis* to the present case. Accordingly, notice dated 26.03.2024, issued under Section 148 of the Income Tax Act, is set aside.

6. 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*