



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18655-2024 (O&M)
Date of Decision:05.08.2024

MALWINDER SINGH SANGARIPetitioners (s)
V/s.
INCOME TAX OFFICER, WARD-1, PATHANKOT AND OTHERS
.....Respondent(s)

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

Present: Mr. Shubhendu Bhattacharyya, Advocate,
for the petitioner(s).

Mr. Saurabh Kapoor, Senior Standing Counsel for
Ms. Urvashi Dhugga, Senior Standing Counsel
for the respondents.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Notice of motion.
2. Mr. Saurabh Kapoor, Senior Standing Counsel, on behalf of Ms. Urvashi Dhugga, Senior Standing counsel accepts notice for the respondents as she is not available due to bereavement in the family.
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 assesseees. 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. Accordingly, order/notice dated 12.03.2024 and 29.03.2024 are set aside. The other questions raised in the present Writ Petition are not pressed by the learned counsel for the petitioner. Accordingly, the same are dismissed as not pressed.

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