120

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19837-2024 (O&M)
Date of Decision: 14.08.2024

AMIT SAKET AND CO.

. . . . Petitioner

Vs.

INCOME TAX OFFICER WARD 1, HISAR

. . . . Respondents

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

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Present: Mr. Alok Mittal, Advocate with
Mr. Ishwinder Singh, Advocate
for the petitioner.

Ms. Vedika, Advocate for
Ms. Gauri Neo Rampal Opal, Sr. Standing Counsel
for the respondents.

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. Notice of motion.

2. Ms. Vedika, Advocate for Ms. Gauri Neo Rampal Opal, Sr. Standing Counsel accepts notice on behalf of respondents/Revenue.

3. Both the counsel are *ad idem* that the issue involved in the present petition stands finally adjudicated in view of the judgment passed by this Court in ***CWP No.21509 of 2023 titled as Jasjit Singh vs. Union of India and others***, decided on 29.07.2024, wherein this Court held as under:

> *"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 be followed strictly and mandatorily. By exercising the powers contained 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 instructions and supplementing the statutory provisions and

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 beesn 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."

4. Keeping in view 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 u/s 148A(b) dated 23.03.2023, order u/s 148A(d) dated 05.04.2023, notice u/s 148 dated 05.04.2023 and consequential proceedings are set aside.

5. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

August 14, 2024
Mohit goyal

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? ***Yes/No***