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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CWP-9299-2023 (O&M)**

KHANNA PAPER MILLS LTD.

. . . . Petitioner

Vs.

ASSISTANT/DEPUTY COMMISSIONER OF INCOME TAX, CIRLCE-1, AMRITSAR

. . . . Respondent

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2. **CWP-9285-2023 (O&M)**

KHANNA PAPER MILLS LTD.

. . . . Petitioner

Vs.

ASSISTANT/DEPUTY COMMISSIONER OF INCOME TAX, CIRLCE-1, AMRITSAR

. . . . Respondent

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Date of Decision: 12.09.2024

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

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Present: Mr. Abhinav Narang, Advocate for the petitioners.

Mrs. Urvashi Dhugga, Sr. Standing Counsel
for the respondents/Revenue.

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<u>SANJEEV PRAKASH SHARMA, J.(Oral)</u>

<u>CM-14944-CWP-2024 and CM-14964-CWP-2024</u>

Applications for placing on record written statements along with annexures on behalf of respondents are allowed.

Registry to place the same at appropriate place.

Main cases

1. Learned counsel for the petitioners has submitted that although the legal argument has not been raised in the petitions, but he submits that the issue stands covered by 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, and by the Coordinate Bench in ***CWP No.15745 of 2024 titled as Jatinder Singh Bhangu vs. Union of India and others***, decided on 19.07.2024.

2. This Court ***Jasjit Singh*** (supra) has held that the Jurisdictional Assessing Officer would not be competent to issue notice under Section 148 of the Income Tax Act, 1961 in view of the Faceless regime. This Court in ***Jasjit Singh*** (supra) 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 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."

3. Learned counsel for the Revenue though objects on the ground of arguments not being taken up in the petitions, but candidly accepts that the factual position is what as was stated by learned counsel for the petitioners, and it would be covered by the judgment of this Court in ***Jasjit Singh*** (supra).

4. Keeping in view above, we ***allow*** these Writ Petitions in the aforesaid terms. The observations and order passed above shall apply *mutatis mutandis* to the present cases. Accordingly, notice issued by Jurisdictional Assessing Officer under Section 148 dated 10.04.2023 in CWP-9299-2023 and notice under Section 148 dated 07.04.2023 in CWP-9285-2023 as well as the consequential proceedings are quashed and set aside.

5. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

September 12, 2024
Mohit goyal

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