
(2003) 08 P&H CK 0053

High Court Of Punjab And Haryana At Chandigarh

Case No: IT Appeal No"s. 203 of 2002 and 3 of 2003

Commissioner of Income Tax

APPELLANT

Vs

Gheru Lal Bal Chand

RESPONDENT

Date of Decision: Aug. 22, 2003

Acts Referred:

- Income Tax Act, 1961 - Section 254(2)

Citation: (2003) 185 CTR 97 : (2004) 269 ITR 386 : (2004) 135 TAXMAN 525

Hon'ble Judges: V.K. Bali, J; Jasbir Singh, J

Bench: Division Bench

Advocate: N.L. Sharda, for the Appellant;

Final Decision: Dismissed

Judgement

B.K. Bali, J.

By this common order, we propose to dispose of two connected matters bearing ITA Nos. 3 of 2003 and 203 of 2002 as, common questions of law and fact are involved in both these appeals. The bare minimum facts that need a necessary mention have, however, been extended from ITA No. 203 of 2003.

2. This is an appeal filed u/s 260A of the IT Act, 1961, against the order of Tribunal, Amritsar Bench, Amritsar, passed in the case Gheru Lal Bal Chand v. Dy. CIT, ITA No. 437 (Asr) 1993 on 7th May, 2002, for the asst. yr. 1984-85.

3. In support of this appeal, Mr. Sharda, learned counsel representing the appellant, contends that learned Tribunal had no jurisdiction to Review its earlier order passed on merits. To substantiate his contention aforesaid, counsel relies on a judgment of Hon"ble Delhi High Court in J.N. Sahni v. ITAT and Ors. (2002) 123 Taxman 569 (Del).

4. In the context of facts and circumstances of this case, we find no merit in the aforesaid contention of learned counsel. Records of the case would reveal that learned Tribunal decided the case against the assessee ex parte on 27th May, 1999,

when for valid reasons, the assessee could not appear. May be, merits of the case were also touched while deciding the matter, the fact remains that it was an ex parte order. Setting aside such an ex parte order on the ground that the assessee for valid reasons could not attend the hearing of the case would not amount to review at all. Insofar as, order on merits that later followed on 7th May, 2002, is concerned, it appears that the matter has been decided on the basis of judgment passed by learned Tribunal in ITA Nos. 211 and 240/Asr/90 for the asst. yr. 1989-90 in case of Smt. Anju Ahuja v. Asstt. CIT. Nothing at all has been urged to show that the facts culminating into passing of order by learned Tribunal in Smt. Anju Ahuja's case (supra) were different from the one in hand or that order of learned Tribunal in Smt Anju Ahuja's case (supra) was subject-matter of challenge in a higher forum.

5. No merits.

6. Dismissed.