

(2002) 01 P&H CK 0126

High Court Of Punjab And Haryana At Chandigarh

Case No: IT Reference No. 86 of 1986

Commissioner of Income Tax

APPELLANT

Vs

Sachdeva and Sons

RESPONDENT

Date of Decision: Jan. 3, 2002

Acts Referred:

- Income Tax Act, 1961 - Section 143, 263, 80HHA, 80J

Citation: (2002) 123 TAXMAN 321

Hon'ble Judges: N.K. Sud, J; Jawahar Lal Gupta, J

Bench: Division Bench

Advocate: R.P. Sawhney and Kishan Singh, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

Jawahar Lal Gupta, J.

The Tribunal has referred the following question for the opinion of this Court :

Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that there is full merger of the order of assessment in the order of the AAC and the Commissioner of income tax has no power to issue notice u/s 263 of the Act ?

Mr. Sawhney places reliance on the Full Bench's decision of this Court in [Punjab State Civil Supplies Corporation Ltd. Vs. Commissioner of Income Tax](#), to contend that the order of assessing authority insofar as it related to the deductions under sections 80HHA and 80J of the income tax Act, 1961 had not merged with the order in appeal as these issues had not been agitated before the appellate authority.

2. The counsel appears to be right. The Full Bench has categorically held that the order passed by the ITO u/s 143 of the Act merges with the appellate order only insofar as "the subject-matter of the appeal" is concerned and no more.
3. In this view of the matter, the question as referred to this Court by the Tribunal, is answered in favour of the revenue. The case will now go back to the Tribunal for fresh decision in accordance with law. We make no order as to costs since no one has appeared on behalf of the respondent.