

Commissioner of Income Tax, Faridabad Vs Darshan Kumar

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 22, 2008

Acts Referred: Income Tax Act, 1961 "Section 143(3), 147, 148, 260A

Citation: (2008) 173 TAXMAN 260

Hon'ble Judges: Satish Kumar Mittal, J; Rakesh Kumar Garg, J

Bench: Division Bench

Advocate: Yogesh Putney, for the Appellant; S.K. Mukhi, for the Respondent

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Satish Kumar Mittal, J.

The revenue has filed this appeal u/s 260A of the income tax Act against the order dated 19-1-2006, passed by

the income tax Appellate Tribunal, Delhi Bench "E", Delhi in ITA No. 1117 (Delhi) of 2004 for the assessment year 1994-95, raising the following

substantial question of law for consideration of this Court :

Whether on the facts and circumstances of the case, the ITAT is right in law in deleting addition of Rs. 8,05,000 by quashing the assessment made

u/s 143(3) read with section 147 of the income tax Act, in view of the second proviso to sub-section (1) of section 148 inserted by the Finance

Act, 2006 with retrospective effect from 1-10-1991.

We have heard counsel for both the parties.

2. Undisputedly, when the Tribunal passed the impugned order on 19-1-2006, the amendment inserted in section 148 of the income tax Act by the

Finance Act, 2006 with retrospective effect from 1-10-1991 was not considered, as there was no occasion for the Tribunal to consider it, because

the same was effected subsequently. In view of this fact, counsel for both the parties have agreed that the impugned order be set aside and the

matter be remitted to the Tribunal to consider the matter afresh in the light of the aforesaid amendment as well as on merits.

3. In view of the above, the impugned order dated 19-1-2006, passed by the income tax Appellate Tribunal, Delhi Bench "E", Delhi is set aside

and the matter is remanded to the Tribunal to consider the matter afresh in the light of the amendment inserted in section 148 of the income tax Act

by the Finance Act, 2006 with retrospective effect from 1-10-1991, as well as on merits, in accordance with law. Appeal stands disposed of

accordingly.