

**(2008) 04 P&H CK 0136**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** IT Appeal No. 529 of 2006

Commissioner of Income Tax,  
Faridabad

APPELLANT

Vs

Darshan Kumar

RESPONDENT

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**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

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### **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.