

**(2010) 09 P&H CK 0369**

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

**Case No:** ITA No. 284 of 2010 (O and M)

Commissioner of Income Tax

APPELLANT

Vs

Tek Singh Saini

RESPONDENT

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**Date of Decision:** Sept. 1, 2010

**Acts Referred:**

- Income Tax Act, 1961 - Section 260A, 263

**Hon'ble Judges:** Ajay Kumar Mittal, J; A.K. Goel, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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**Judgement**

Adarsh Kumar Goel, J.

Revenue has preferred this appeal u/s 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated 2.3.2009 of the Income Tax Appellate Tribunal, Delhi Bench "SMC" New Delhi (hereinafter referred to as "the Tribunal") in ITA No. 3601(Del)/2008, for the assessment year 2000-01, proposing following substantial question of law:

Whether ITAT is right in law in dismissing the appeal of the Revenue, when the appeal against the order of the Tribunal quashing the order passed u/s 263 of the Income Tax Act, 1961 of the Commissioner of Income is pending before the Hon"ble Punjab & Haryana High Court?

2. Against the order of assessment, the Commissioner passed an order u/s 263 and directed fresh assessment to be made. Accordingly, fresh assessment was made. The said revisional order u/s 263 was set aside by the Tribunal against which appeal of the revenue was dismissed by this Court on 9.2.2010 being ITA No. 202 of 2009 (Commissioner of Income Tax, Rohtak v. Sh. Tek Chand Saini). By impugned order Tribunal has set aside the assessment made.

3. We have heard learned Counsel for the appellant.

4. In view of the fact that order u/s 263 of the Act has been held to be invalid, the order passed by the Tribunal is merely consequential. Learned Counsel for the appellant could not point out any error in the impugned order. No substantial question of law arises.

5. Accordingly, the appeal is dismissed.