

(2024) 10 P&H CK 1209
In the Punjab And Haryana At Chandigarh
Case No : CWP Of 28331 Of 2024

Adit Gupta

APPELLANT

Vs

Income Tax Officer And Others

RESPONDENT

Date of Decision : 19-10-2024

Acts Referred:

Income Tax Act, 1961 — Section 119, 120, 144(B), 148

Citation : (2024) 10 P&H CK 1209

Hon'ble Judges : Sanjay Vashisth, J; Sanjeev Prakash Sharma, J

Bench : Division Bench

Advocate : Nikhil Goyal, Varun Issar

Final Decision : Allowed

Judgement

Sanjeev Prakash Sharma, J

1. Notice of motion.

2. Mr. Vaarun Issar, Sr. Standing Counsell accepts notice on behalf of respondents/Revenue.

3. Both the counsel are adidem that the issue involved in the present petitionn stands finally examined and concluded by this Court in CWP No.215509 of 2023 titled as Jasjit Singh vs. Union of India and others, decidedd on 29.07.2024, and by thee Coordinate Bench in CWP No.157745 of 2024 titled as Jatinder Singh Bhangu vs. Union of India and othhers, decided on 19.07.2024. This Court in Jasjit Singh (supra) held as under:

"16. We are in agreemennt with the view taken by the Coordinate Bench and holld that such circular or instructions by the Board could not have been issued to override statutory provisions or to make them otiose or obsolete. Legislative enactmennts having financial implications are required to be followed strictly and mandatorily. By exercising the powers contained in Sections 119 and 120 of the Act, 1961 as well as Section 144B (7 & 8), the authorities cannot be allowed to

usurp the legal provisions to their own satisfaction and convenience causing hardship to the assessee. It also leaves confusion in the minds of the taxpayers. In the opinion of this Court, instructions and circulars can be issued only for the purpose of supplementing the statutory provisions and for their implementation.

17. In view of the aforesaid discussion, there is no occasion to distinguish or take a different view as suggested by the learned counsel for the revenue from what has already been held by the Coordinate Bench.

18. Keeping in view the law laid down by the Coordinate Bench (supra), notices issued by the JAO under Section 148 of the Act, 1961 and the proceedings initiated thereafter without conducting the faceless assessment as envisaged under Section 144B of the Act, 1961, have been found to be contrary to the provisions of the Act, 1961 and accordingly notices dated 28.02.2023, 16.03.2023, 20.03.2024 and 30.03.2023 and order dated 30.03.2023, are set aside for want of jurisdiction.

19. The respondents-revenue would be, however, at liberty to follow the procedure as laid down under the Act, 1961 and proceed accordingly, if so advised.

20. All the writ petitions are allowed. The interim order passed by the Court shall stand merged with the present order."

4. Keeping in view above, we allow this Writ Petition in the aforesaid terms. The observations and order passed above shall apply mutatis mutandis to the present case. Accordingly, notice dated 31.03.2024 issued under Section 148 of the Income Tax Act, 1961 by Jurisdictional Assessing Officer as well as the consequential proceedings are set aside.

5. All pending applications also stand disposed of accordingly.