

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A', CHANDIGARH

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
DR KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA Nos. 22 to 24/CHD/2020

निर्धारण वर्ष / Assessment Years : 2009-10, 2010-11 & 2011-12

The ITO, Ward 1(4), Chandigarh	Vs. बनाम	Fateh Homes Pvt Ltd., # 2144, Sector 15-C, Chandigarh
स्थायी लेखा सं./PAN No. AABCF0763F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(HYBRID MODE)

निर्धारिती की ओर से/Assessee by : Shri Parikshit Aggarwal, C.A.
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 06.06.2024
उदघोषणा की तारीख/Date of Pronouncement: 07.06.2024

आदेश/Order

Per A.D. Jain, Vice President:

These are Departmental appeals for A.Ys. 2009-10, 2010-11 and 2011-2012. In these cases, the matter involved was recalled vide common order dated 28.08.2023 under M.A. Nos. 40 to 42/Chd/2020, whereby the order passed against the Department on account of low

tax effect was recalled and the appeals were ordered to be heard on merits.

2. It is noted that present appeals filed by the Revenue which were dismissed by the Coordinate Bench vide its common order dt. 04.02.2020 on account of low tax effect in view of CBDT Circular No. 3/2018 dated 11.7.2018, are connected to the Assessee's appeals decided vide ITAT, Chandigarh Bench, order dated 16.6.2021, ITA Nos 50, 51 & 52/Chd/2020 for A.Ys. 2009-10, 2010-11 & 2011-12 wherein, the re-opening u/s 148 of the I.T. Act was held to be bad in law and the assessment orders were quashed by setting aside the impugned orders for all the above three assessment years and the appeals of the Assessee were allowed.

3. Thereafter, the Department filed M.As. Nos. 40 to 42/Chd/2020 for recalling the appeals, contending that the case of the Assessee falls under exception (e) of Para 10 of the Circular No. 3 of 2018 amended on 20.8.2018 and the M.As. of the Department were allowed to be heard on merits for the above three assessment years and the matter was fixed for hearing on 6.6.2024. Hence, the same have come up for adjudication before us.

4. During the course of hearing, the ld. DR reiterated that though the tax effect in these cases is below the limit prescribed by Circular

No. 17/2019 dated 08.08.2019 of the CBDT read with Circular No. 03/2018 dated 11.07.2018, the case falls in the exception provided under para 10(b) of the said Circular No. 03/2018 dated 11/07/2018.

5. Per contra, the ld. AR, relying on the Order of the Tribunal dated 16.6.2021, submitted that the connected appeals of the Assessee for the assessment years 2009-10, 2010-11 and 2011-12 were decided by the Tribunal holding the re-opening u/s 148 of the I.T. Act to be bad in law, and the assessment orders were quashed.

6. We have heard rival contentions and have perused the material available on the record. We find that the Tribunal decided the Assessee's appeals vide order dated 16.6.2021, in ITA Nos 50, 51 & 52/Chd/2020, for A.Ys. 2009-10, 2010-11 and 2011-12 by holding the re-opening u/s 148 of the I.T. Act to be bad in law. The assessment orders were quashed for the aforesaid three assessment years 2009-10, 2010-11 and 2011-12, and the appeals of the Assessee were allowed. We find that since all the three assessments have been quashed, nothing further survives for adjudication. Therefore, the Departmental appeals for A.Ys. 2009-10, 2010-11 and 2011-12 also, likewise, do not survive for adjudication. Accordingly, the Departmental appeals are dismissed as infructuous.

7. In the result, the appeals of the Revenue are dismissed as infructuous.

Order pronounced on 07.06.2024.

Sd/-

Sd/-

(Dr. KRINWANT SAHAY)
Accountant Member

(A.D. JAIN)
Vice President

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar