

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ITR No.355 of 1995
Date of decision:30.11.2006

Commissioner of Income Tax, Patiala

....Petitioner

versus

Krishna Cold Storage Rice Mills, Rajpura

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for the opinion of this Court by the Income tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal') arising out of its order dated 15.3.1993 in ITA No.570/Chandi/88, for the assessment year 1983-84:-

“Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amendment made in section 263 of the Income tax Act, 1961 with effect from 1.10.1984 regarding the commencement of the period of limitation was not applicable to the assessment order sought to be revised as the said order related to the assessment year 1983-84?”

Learned counsel for the revenue states that identical question has been gone into by this Court in judgment dated 2.11.2006 in ITR Nos.39 and 40 of 1993, **The Commissioner of Income tax, Patiala v. Mrs. Anita Kapoor, Ludhiana**, wherein it was observed as under:-

“Learned counsel for the revenue submitted that on 1.10.1984, an amendment was made to section 263 of the Income tax Act, 1961 (for short, 'the Act'), which provided a period of two years from the end of the year in which the order of assessment was passed. The order having been passed on 26.6.1984, the period of two years commenced from 31.3.1985 and the order of CIT

under Section 263 of the Act was thus within limitation.

We find that the department itself issued a circular No.402 dated November 1, 1984, (1985) 151 ITR (St) 46 to the effect that limitation period provided before amendment dated 1.10.1984 has to be adhered to even after amendment in respect of the order passed prior to 1.10.1984 if the same is to be revised.

In view of the said circular, we are of the view that the question has to be answered against the revenue and in favour of the assessee.”

In view of the above, the question referred is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 30, 2006
'gs'

(Rajesh Bindal)
Judge