

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

I.T.A. No. 529 of 2006

DATE OF DECISION : 22.04.2008

Commissioner of Income Tax, Faridabad

.... APPELLANT

Versus

Mr. Darshan Kumar C/o Rakesh Raj & Associates, Faridabad

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE RAKESH KUMAR GARG

Present: Mr. Yogesh Putney, Advocate,
for the appellant-revenue.

Mr. S.K. Mukhi, Advocate,
for the respondent-assessee.

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SATISH KUMAR MITTAL , J. (Oral)

The revenue has filed this appeal under Section 260-A 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 (Del) 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 under Section 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 01.10.1991.”

We have heard counsel for both the parties.

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.

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.

**(SATISH KUMAR MITTAL)
JUDGE**

April 22, 2008
ndj

**(RAKESH KUMAR GARG)
JUDGE**