IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 485 of 2008
DATE OF DECISION: May 18, 2012

The Commissioner of Income Tax, Panchkula ....APPELLANT(S)

VERSUS

M/s. Bindal Steels ......RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

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

Mr. Ravi Shankar, Advocate,
for the respondent.

AJAY KUMAR MITTAL, J. (ORAL)

1. This order shall dispose of two appeals i.e. ITA Nos. 485 and 486 of 2008, as the appeals arise from the same order passed by the Tribunal in respect of the assessee therein.

2. In ITA No. 485 of 2008, the following substantial questions of law have been framed:-

> *"1.Whether on the facts and in the circumstances of the case, the Ld. ITAT was right in law in deleting the addition of Rs. 1,07,500/- by following its earlier decision given in the case of Sh. Anil Kumar, Jagadhri & Others (IT(SS) 19/Chandi/05 and others) vide order dated 29.6.2007.*
>
> *2. Whether on the facts and in the circumstances of the case, the Ld. ITAT was right in law in affirming the*

order of the CIT(A) ignoring the fact that the addition has been made in the hands of the assessee on the basis of typed submission made by the author of the document Annexure A-1, which was part of the seized documents and statements recorded u/s 132 of the Act.

3. *Whether the Ld. Tribunal is right in following its order dated 29.6.2007 (supra) in which it was held at page 68 of the order that the office note dated 21.05.2001 which was appended to 158 BC order dated 21.5.2001 and is part of the said order, does not constitute a satisfaction note within the parameter of Section 158 BD of the Income Tax Act, 1961 in respect of the person who has borrowed money through the assessee broker who is the searched person for the purpose of order u/s 158 BC of the Income Tax Act, 1961.*

4. *Whether the Ld. Tribunal is right in holding that the A.C.I.T. Circle, Yamuna Nagar ought to have handed over the seized material and satisfaction note to ITO, Ward-1, Yamuna Nagar without appreciating the fact that the ITO, Ward-I, Yamuna Nagar was not having jurisdiction over the case, as an officer not below the rank of Assistant Commissioner of Income Tax only is competent to pass an order u/s 158 BC/ 158 BD of the Income Tax Act, 1961 and since the*

A.C.I.T, Yamuna Nagar himself was granted jurisdiction as per order dated 31.12.2001, there was no necessity to transfer the seized material/Satisfaction note to ITO Ward-1.

5. *Whether the Ld. Tribunal is right in holding that there has been delay in recording of satisfaction prior to issue of notice u/s 158 BD of the Act whereas the Tribunal has itself observed that the satisfaction note dated 21.05.2001 referred to in Qus.No.1 above is within the period of limitation. And, when the statute has not prescribed any time limitation for issue of notice u/s 158BD of the Act.*
6. *Whether the Ld. Tribunal is right in law in deleting the addition of Rs. 1,07,500/- ignoring overwhelming evidence in the shape of Document A-1 and another documentary evidence in the shape of statement of the author of the document establishing that these transactions relates to the assessee.*
7. *Whether the Ld. Tribunal is right in law in not taking into cognizance of additional evidence i.e. an examination report/opinion of laboratory of the Government Examiner of Questioned Documents, Shimla regarding the Diary of Dalal & (ii) Affidavit of Dalal dated 27.10.2004, which was adduced during the proceedings before the Ld. Tribunal."*

3. At the time of motion hearing, this case was ordered to be heard

alongwith ITA No. 500 of 2008. It has been reported that ITA No. 500 of 2008 has been disposed of by this Court on 28.02.2011 wherein, following the judgment of this Court in ***ITA No. 22 of 2008, The Commissioner of Income Tax, Panchkula vs. M/s. Mukta Metal Works***, the matter has been remanded to the Tribunal for fresh decision.

4. Learned counsel for the revenue has pointed out that Special Leave Petitions Nos. 20755-20802 of 2011 filed against the said decision have also been dismissed on 08.08.2011. Learned counsel for the assessee does not dispute the aforesaid fact.

5. Accordingly, both the appeals are disposed of in the same terms and the matter is remanded to the Tribunal for fresh decision in accordance with law.

6. Photocopy of the order be placed on the file of connected case.

(Ajay Kumar Mittal)
Judge

18.05.2012
shivani

(G.S. Sandhawalia)
Judge