

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Date of Decision : 10.08.2010

**COCP No.1553 of 2010**

Kulwant Kaur

...Petitioner

Versus

Mr. Hutesh Dogra, Deputy Commissioner  
of Income Tax, Range-VII, Rishi Nagar, Ludhiana

...Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA**

Present : Ms. Kulwant Kaur-petitioner in person.

**HEMANT GUPTA, J. (Oral)**

The petitioner is an assessee, who was assessed to Income Tax by the Deputy Commissioner of Income Tax, Range-VII, Rishi Nagar, Ludhiana for the assessment years 1993-94 and 1994-95. The Deputy Commissioner of Income Tax has passed an assessment order on 6.12.2004. Aggrieved against the said order, the Revenue went in appeal before the Income Tax Appellate Tribunal, Chandigarh (for short 'the Tribunal'). The Tribunal accepted the appeal and remitted the matter to the Deputy Commissioner for fresh adjudication. The Assessing Officer was to confront the assessee with the evidence and material in his possession, which is sought to be used against the petitioner. The assessee was at liberty to produce all evidence and material in support of her stand before the Assessing Officer. The Assessing Officer was to allow a reasonable opportunity of being heard to the assessee and after considering the material and evidence on record, adjudicate the above two issues culled down by the Tribunal in accordance with law.

The grievance of the petitioner is that the Assessing Officer while making assessment proceedings is deviating from the issues culled down by the Tribunal and asking for information which is outside the domain of the two issues. Thus, the action of the Assessing Officer is in contravention of the orders passed by the Tribunal. Therefore, it is violation of the order passed by the Tribunal and, thus, a civil contempt.

The petitioner was asked to clarify as to whether, the Income Tax Appellate Tribunal, Chandigarh is a Court within the meaning of Section 2(b) of the Contempt of Courts Act, 1971. In response to the said query, the petitioner pointed out that the Income Tax Appellate Tribunal, Chandigarh is an authority acting judicially, therefore, in terms of Section 16 of the Act and Rule 82 of Schedule II of the Income Tax Act, 1961, the ‘Chief Commissioner or Commissioner’, Tax Recovery Officer or other officer acting under this Schedule are deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850.”

I am unable to accept the said argument that Court as defined under Section 2 (b) read with Section 16 of the Act including Income Tax Appellate Tribunal. Firstly, under Rule 82 of Schedule II of the Income Tax Act, 1961, the Chief Commissioner or the specified authorities can be said to be acting judicially, when they are acting under the Schedule i.e. Schedule II. The assessment proceedings are not part of Schedule II and, therefore, reliance of the petitioner on Rule 82 of Schedule II of the Income Tax Act, 1961 is misconceived. It is well-settled that Income Tax Act, 1961 is complete Code in itself, providing for remedy of appeal against the assessment orders and also the execution of the orders passed by the authorities under the Act. The jurisdiction of the Civil Court is specifically barred in terms of Section 293 of the Act. Since the Income Tax Appellate

Tribunal exercises jurisdiction conferred under the Act, the petitioner has to find remedies under the Act alone and not under the Contempt of Courts Act, 1971.

Consequently, I do not find that there is any violation of any direction of the Tribunal by the Assessing Officer, which will disclose any civil contempt, the cognizance of which can be taken by this Court.

Dismissed.

10.08.2010  
Vimal

(HEMANT GUPTA)  
JUDGE