

## SC sets aside HC's judgment as it was passed without pointing out error of law in ITAT's order

**Summary – The Supreme Court of India in a recent case of Sangeeta Mahajan, (the Assessee) held that where statutory appeal lies to High Court, High Court ought to have given its finding in detail particularly with regard to any error of law in decision of Tribunal and error caused prejudice to revenue.**

### ORDER

- The appellant is an individual. She is a partner in M/s Mahajan Exports, Panipat. She derives business income, income from salary and income from house property. A search was conducted under Section 132 (1) of the income Tax Act, 1961 ['Act', for short] at her residential premises and business premises. It got concluded on 10th November, 2000. Subsequently, notice under Section 158BC of the Act was issued to her on 5th February, 2003, asking her to furnish Return of Income for Block Assessment period. The appellant declared the total undisclosed income as 'nil' on 20th February, 2003. Consequently, the Assessing Officer undertook assessment proceedings, in pursuance of search and seizure, in which the appellant was represented by her authorised representative. After verifying the details filed by the appellant, the Block Assessment proceedings were completed by the Assessing Officer at the total undisclosed income as 'nil' [See Order dated 3rd September, 2003]. The said order of the Assessing Officer under Section 158BC of the Act was set aside by Commissioner of Income under Section 263 of the Act with a direction to make the assessment de novo on the points enumerated in Synopsis 'C' to the special leave petition. This Order of Commissioner of Income Tax under Section 263 of the Act was set aside by the Income Tax Appellate Tribunal ['ITAT', for short] observing that the appellant had filed detailed explanation and supporting evidence on the basis of which the Assessing Officer had made due enquiries while passing Order dated 3rd September, 2003, after obtaining necessary approval of his superior officer under Section 158BC of the Act. The order of ITAT was challenged by the Department before the High Court of Punjab and Haryana vide I.T.A. No. 383 of 2006 under Section 260A of the Act. The High Court, vide it's impugned judgment, has set aside the Order of ITAT. However, it appears from the record that the appellant was not heard by the High Court, which over-ruled the decision of ITAT. The review application was also dismissed by the High Court.
- We are of the view that, in this case, detailed reasons were required to be given by the Division Bench of the High Court, particularly when, by the impugned judgment, the High Court has over-ruled the decision of ITAT. Since statutory appeal lies to the High Court under Section 260A of the Act, the High Court ought to have given it's findings in detail, particularly, on the question whether there was any error of law in the decision of ITAT and whether that error caused prejudice to the Revenue. In any event, this Court is of the view that, on the facts and circumstances of this case, since the appellant [assessee] was not heard, indulgence is being

shown to her to appear before the High Court on the appointed date and argue the matter. For this reason alone, we set aside the impugned judgment of the High Court and remit the case for de novo consideration in accordance with law. We do not wish to express any opinion on the merits of the case. The impugned judgment is set aside only on the ground that an opportunity needs to be given to the appellant [assessee] to argue her case before the High Court.

- The civil appeal is, accordingly, allowed. No order as to costs.