Commissioner of Income Tax, Jalandhar v. Prem Kumar Bhagat

ITR 75/1998

ITR 75/1998 | 2007-07-26

Binding appellate directions required a specific order appointing the non-resident's agent.

163(2) | 256(1)

High Court of Punjab and Haryana | Division Bench | Justice M.M. Kumar | Justice Ajay Kumar Mittal

Assessment years: 1973-74

Scope of this order

Revenue failed because the required agent-status order had not been passed despite binding directions.

01 FACTS OF THE CASE

Sudershan Kumar filed a return as agent of his non-resident brother Prem Kumar Bhagat for AY 1973-74. Two appellate orders required the assessing authority to determine that representative status after hearing him, but no specific appointment order followed.

Source: PDF p. 2

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 163(2) and the unchallenged appellate directions of 25 August 1978 and 10 November 1982 as binding. Signing the return did not excuse non-compliance with those directions.

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03 JUDICIAL DECISION

All referred questions were answered for the assessee and against Revenue; the Tribunal's cancellation of the assessment was sustained.

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04 OUTCOME / IN WHOSE FAVOUR

Revenue failed because the required agent-status order had not been passed despite binding directions.

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05 EXPERT COMMENTS

The final appellate directions are central — The holding cannot be reduced to an abstract notice proposition. The Court expressly relied on two final appellate orders requiring a specific determination of agency.

Preserve the qualification concerning voluntary conduct — Page 6 acknowledges that holding oneself out as agent might otherwise affect whether a notice failure invalidates assessment. That possibility could not override the binding directions in this case.

Agency is not automatically carried into another year — The Court notes that agency for one assessment year does not necessarily establish agency for the next. Identify the relevant year and order before applying the result.

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SOURCE & VERIFICATION

Primary High Court order - verified local repository copy

Complete source PDF reviewed: 6 physical pages.

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

Open cited source rendition

All 6 physical source pages read and visually inspected. SHA-256: ef23f77a94dc3374a78f37097ab9d6e64f70406f70ae0a326a731911f4682cee.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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