IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 37 of 2003 (O&M)

Date of Decision: 21.04.2016

The Commissioner of Income Tax, Patiala
.......Appellant

Versus

M/s Mohan Bottling Co. (P) Ltd.
......Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Zora Singh Klar, Advocate
for the appellant.

Mr. Alok Mittal, Advocate
for the respondent.

RAJESH BINDAL,J.

This appeal has been filed under Section 260 A of the Income Tax Act, 1961 (for short 'the Act'), against the order dated 21.8.2002 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA No.1122/Chandi/95, for the assessment year 1992-93, raising the following substantial question of law:

> “Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that excess of 'security deposits' over 'refunds' received by the assessee on sale of bottles is not a trading receipt?”

Learned counsel for the appellant-revenue submitted that in view of circular No.21/2015 dated 10.12.2015 read with circular No.279/Misc/M-142/2007-ITJ (Part) dated 8.3.2016, issued by Central Board of Direct Taxes, he does not wish to press the present appeal, as the tax effect involved is less than ₹ 20 lacs. However, he prays that liberty be granted to the revenue to file an application for revival of the appeal in case something survives therein.

Dismissed as not pressed with liberty as prayed for. It is however, clarified that withdrawal of the appeal by the revenue shall not be taken as affirmation of order of the Tribunal on merits. The legal issue as claimed by the revenue is left open to be adjudicated in an appropriate case.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

21.04.2016
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