IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 237 of 2003 (O&M)

Date of Decision: 11.05.2016

Commissioner of Income Tax-II, Amritsar

.......Appellant

Versus

M/s Sachdeva and Sons (EOU)

......Respondent

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

Present: Mr. Denesh Goyal, Advocate
for the appellant.

Mr. Avneesh Jhingan, 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 30.6.2003 passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, in ITA No. 55(ASR)/2002, for the assessment year 1998-99, raising the following substantial question of law:

> Whether, on the facts and circumstances of the case, the Tribunal is right in law and fact in holding that there is no transfer within the meaning section 45(4) read with section 2(47) of the Act, whereas section 45(4) include transfer of capital asset by the firm otherwise than on its dissolution and also when section 2(47) is fully applicable in this case?

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

11.05.2016
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