IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 77 of 2002 (O&M)

Date of Decision: 04.04.2016

The Commissioner of Income Tax, Panchkula

.......Appellant

Versus

Sh. B.L. Ramsisaria

......Respondent

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

Present: Mr. Yogesh Putney, Advocate
for the appellant.

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 3.10.2001 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA Nos. 159, 160 & 161/Chandi/94, for the assessment year 1991-92, raising the following substantial questions of law:

> (i) Whether on the facts and circumstances of the case, the ITAT was right in law in holding that amount of compensation was paid for loss of services, when the assessee has himself resigned voluntarily, the services of the assessee were not terminated by the employer. Since, it was a case of voluntary resignation, the receipts cannot be said to be on account of any compensation, but on account

of a contract again entered into by the assessee of his own volition. In the case of voluntary resignation, no restrictive convenant could have been imposed on the assessee by the employer?

(ii) Whether on the facts and circumstances of the case, the Hon'ble ITAT have erred in law in treating the compensation as capital receipt; whereas the same was a revenue receipt and was taxable as "profit in lieu of salary" u/s 17(3) of the Income Tax Act, 1961?

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

04.04.2016
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