IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 139 of 2002 (O&M)

Date of Decision: 02.05.2016

The Commissioner of Income Tax, Jalandhar-I, Jalandhar
.......Appellant

Versus

M/s Verma Plastics Works ......Respondent

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

Present: Mr. Vivek Sethi, Advocate
for the appellant.

Mr. Alok Mittal, Advocate
for the respondent.

RAJESH BINDAL,J.

Learned counsel for the assessee has supplied a copy of the paper book today in Court which is taken on record.

This appeal has been filed under Section 260 A of the Income Tax Act, 1961 (for short 'the Act'), against the order dated 18.2.2002 passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, in ITA No. 594/Chandi/1999, for the assessment year 1996-97, raising the following substantial question of law:

> (1a). Whether the Ld. ITAT was justified in law and on the facts in reversing the orders of lower authorities including Ist Appellate Authority by treating the bogus liabilities recorded/outstanding in the names of fictitious parties as bogus/inflated purchases resulting thereby deletion of addition made by the A.O. at Rs. 2,22,809/- and enchanced by the Ld. Ist Appellate Authority by Rs. 1,17,877/- having regard to the provision of Section 69 of the Income-tax Act, 1961?

(1b). Whether, on the facts and in the circumstances of the case, the Ld. ITAT was correct in holding that the disallowance of Rs. 15,000/- is not based on any cogent reasons?

(1c) Whether, on the facts and in the circumstances of the case, the Ld. ITAT has erred in law in deleting the addition of Rs.33,200/- made being unexplained cash credit introduced in the names of fictitious parties and the assessee also failed to adduce any evidence in support thereof?

(2) Whether the Ld. ITAT has erred in law and on facts in misinterpretating the legal position as enunicated by the Hon'ble Apex Court in the case reported in 49 ITR 162 that the burden of proof is on the assessee to prove the transactions recorded in its books of account?

(3) Whether the order of Ld. ITAT is perverse in law as it has failed to consider material and relevant facts?

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

02.05.2016
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