IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 167 of 2003 (O&M)

Date of Decision: 29.03.2016

Commissioner of Income Tax-I, Ludhiana

.......Appellant

Versus

M/s Vardhman Spinning & General Mills Ltd.

......Respondent

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

Present: Mr. Rajesh Katoch, 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 26.03.2003 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (A), in ITA Nos.973/CHANDI/96 and 917/CHANDI/96, for the assessment year 1991-92, raising the following substantial questions of law:

> (i) Whether in view of the circumstances and facts of the case, the Hon'ble Income Tax Appellate Tribunal erred in deleting the disallowance made by the Assessing Officer and confirmed by the Commissioner of Income Tax (Appeals) amounting to Rs.1,61,504/- on account of items presented by the assessee and are in the nature of advertisement?

(ii) (a) Whether, the Income Tax Appellate Tribunal is correct in ignoring the expenditure incurred for earning the Dividend Income, while allowing relief u/s 80-M without examining the fact that such expenditure was actually incurred to earn dividend income which was liable to be considered for deduction u/s 80-M?

(b) Whether the Income Tax Appellate Tribunal is correct in ignoring the fact that dividend income means gross dividend income as reduced by related expenditure?

(iii) Whether the income Tax Appellate Tribunal was correct in ignoring explanation baa below sub section 4B of Section 80HHC and taking the rental income out of the ambit of Explanation baa by holding it as business income?

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

29.03.2016
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