IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 98 of 2002 (O&M)

Date of Decision: 25.04.2016

Commissioner of Income Tax-III, Ludhiana

.......Appellant

Versus

M/s Bicycle Wheels (India)

......Respondent

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

Present: Mr. Rajesh Katoch, 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 1.11.2001 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (A), in ITA No. 1193/Chandi/94, for the assessment years 1993-94, raising the following substantial questions of law:

> (i) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in holding that sale of scrap in India is not a part of total turnover of the respondent firm for the purposes of calculation of deduction u/s 80HHC?
>
> (ii) Whether on facts and in the circumstances of the case, the ITAT was justified in ignoring sale of scrap in computing total turnover, when such

generation was a bye-product of manufacturing process?

(iii) Whether on facts and in the circumstances of the case, a bye-product in a Manufacturing Process is not eligible for being considered in computation of total turnover for computing 80HHC deduction?

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

25.04.2016
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