**IN THE HIGH COURT OF PUNJAB AND HARYANA**
**AT CHANDIGARH**

**ITA No. 136 of 2000 (O&M)**
**Decided on : 28.01.2016**

The Commissioner of Income Tax, Ludhiana. . . . Appellant

Versus

Suresh Kumar Kohli, Prop. . . . Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**
**HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

PRESENT: Mr. Rajesh Katoch, Advocate
for the appellant.

Mr. Salil Kapoor, Advocate and
Mr. Sumit Lalchandani, Advocate
for the respondent.

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**AJAY KUMAR MITTAL, J. (Oral)**

Learned counsel for the assessee submitted that the respondent-assessee had claimed the benefit of profits earned out of the unrecorded sale amounting to ₹26,64,106 whereas the Tribunal had remanded the matter to the Assessing Officer to recalculate the peak of the Bank account keeping in view the directions contained in the order dated 28.02.2000 passed by the Tribunal. It was contended that even if the entire amount of ₹26,64,106 was taken into consideration by applying 60% rate of tax, the tax effect would be less than ₹20 lacs.

2. This fact, however, could not be controverted by the learned counsel for the appellant and he submitted that keeping in view the circular No. 21/2015, dated 10.12.2015 issued by the C.B.D.T., New Delhi, the present appeal may be dismissed as withdrawn. However, liberty may be granted to the revenue to file an application for revival of the appeal in case something survives therein.

3. Dismissed as withdrawn with liberty as prayed for. It is, however, clarified that withdrawal of the appeal by the revenue shall not be taken to be affirmation of order of the Tribunal on merits. Further, the legal issue as claimed by the revenue is being left open to be adjudicated in an appropriate case.

**(AJAY KUMAR MITTAL)**
**JUDGE**

**(RAJ RAHUL GARG)**
**JUDGE**

**January 28, 2016**
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