IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 1 of 2003 (O&M),
ITR No.1-A of 2003 (O&M) and
ITR No.1-B of 2003 (O&M)

Date of Decision: 11.05.2016

The Commissioner of Income-Tax, Patiala ....Appellant

Versus

Shri Shivinder Singh ......Respondent

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

Present: Mr. Zora Singh Klar, Advocate
for the appellant.

Mr. A.K.Jain, Advocate
for the respondent.

RAJESH BINDAL,J.

This order will dispose of ITR Nos. 1, 1-A and 1-B of 2003 as common question of law and fact are involved in the same. These references have been filed in RA No. 75/Chandi/83 arising out of ITA No.196/Chandi/1982, for the assessment years 1977-78, RA No. 76/Chandi/83 arising out of ITA No. 195/Chandi/1982, for the assessment years 1977-78 and R.A. No. 83/Chandi/83, arising out of I.T.A. No.128/Chandi/1982, for the assessment years 1977-78, raising the following substantial question of law:

> Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that in case Capital Gains arising from the sale of agricultural land are to be taxed, the assessee has the option to substitute its cost as on 28.2.1979, the date from which the agricultural lands, due to an amendment in law, became as asset? (28.2.79 should be 28.2.70).

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 references 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 references in case something survives therein.

Dismissed as not pressed with liberty as prayed for. It is however, clarified that withdrawal of the references 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

11.05.2016
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