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

**ITA No. 24 of 2002 (O&M)**

**Date of Decision: 29.03.2016**

Commissioner of Income Tax-I, Ludhiana

.......Appellant

**Versus**

M/s National Picture Corporation, Society Cinema, Ludhiana

......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 8.6.2001 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (SMC), in ITA Nos.501/Chandi/91 and 369/Chandi/94, for the assessment year 1983-84, raising the following substantial questions of law:

> (1) Whether on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in law in holding that evidence on record is not sufficient for the levy of penalty u/s 27 (1) ( c)?
>
> (2) Whether on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in law in holding that both the

penalties levied by the Assessing Officer as well as the Commissioner of Income Tax (Appeals) are not sustainable because the Assessing Officer has omitted to record satisfaction in words that the assessee has concealed the income/furnished inaccurate particulars of income in the assessment order?

(3) Whether in view of the entirety of the facts and circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was right in law in deleting the penalty u/s 271 (1) (c )?

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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