IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 3 of 2003 (O&M)

Date of Decision: 29.03.2016

The Commissioner of Income Tax, Patiala

.......Appellant

Versus

Sh. Gurcharan Singh Harminder Singh

......Respondent

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

Present: Ms. Urvashi Dhugga, Advocate
for the appellant.

RAJESH BINDAL,J.

This reference has been filed in RA No.293/Chandi/1995 arising out of I.T.A. No.992/Chandi/1990, for the assessment year 1985-86, raising the following substantial question of law:

> (i) Whether, on the facts and in the circumstances of the case, the I.T.A.T. was right in law in upholding the order of the first appellate authority that compensation received by the assessee was a capital receipt when the amount received was for cessation of business earning and one of the partners continued to operate the business there?

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, she does not wish to press the present reference as the tax effect involved is less than ₹ 20 lacs. However, she prays that liberty be granted to the revenue to file an application for revival of the reference in case something survives therein.

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