

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

ITA No. 45 of 2004 (O&M)

Date of Decision: 29.03.2016

Commissioner of Income Tax-I, Ludhiana

.....Appellant

Versus

M/s Vardhman Spinning and General Mills Ltd.

.....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 30.7.2003 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA Nos.712/CHANDI/97 and 658/CHANDI/97, for the assessment year 1992-93 raising the following substantial questions of law:

- (i) (a) Whether in view of the circumstances and facts of the case, the Hon'ble Income Tax Appellate Tribunal erred in confirming the order of the Commissioner of Income Tax (Appeals) on account of deduction on front end fee though this expenditure pertaining the period before commencement of commercial production?
- (b) Whether this expenditure is not a capital expenditure?

(ii) Whether, the Income Tax Appellate Tribunal is correct in ignoring the expenditure incurred for earning the Dividend Income, while allowing relief u/s 80-M without examining the fact that such expenditure was actually incurred to earn dividend income which was liable to be considered for deduction u/s 80-M?

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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