IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 78 of 2004 (O&M)

Date of Decision: 11.05.2016

Commissioner of Income-Tax (Central), Ludhiana
.......Appellant

Versus

Sh. Vinod Kakkar
......Respondent

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

Present: Mr. Vivek Sethi, Advocate
for the appellant.

Mr. Divya Suri, Advocate
for the respondent.

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 15.09.2003 passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, in ITA No. 309 (ASR)/2003, for the assessment year 1993-94, raising the following substantial question of law:

> Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the order passed by the A.O. was beyond time limitation prescribed u/s 153 overlooking thereby the fact that the order was passed within the period of 60 days reckoned from 30.03.2002, the date on which the order of the Hon'ble High Court vacating the stay came to the notice of A.O.?

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

11.05.2016
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