

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

ITA No. 388 of 2007 (O&M)

Date of Decision: 11.05.2016

Commissioner of Income Tax-III, Ludhiana

.....Appellant

Versus

M/s Vijay Kiran Hotels (P) Ltd.,

.....Respondent

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

**Present: Mr. Rajesh Katoch, Advocate
for the appellant.**

None 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 28.4.2006 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA No. 499/Chandi/2004, for the assessment year 1996-97, raising the following substantial questions of law:

(i) Whether on the facts and circumstances of the case, a notice given at the 'Reception of the Hotel/Marriage Palace' for service by the Notice Server is a valid service or not?

(ii) Whether a Notice served after lapse of 28 days from the date of issuance of notice can be termed as improper service when there is no time limit prescribed in the Income Tax Act for the service of notice?

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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