IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 443 of 2007 (O&M)

Date of Decision: 02.05.2016

Commissioner of Income Tax, Ludhiana-II
.......Appellant

Versus

M/s Avon Cycles Ltd.
......Respondent

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

Present: Mr. Zora Singh Klar, Advocate
for the appellant.

Mr. Alok Mittal, 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 29.12.2006 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (A), Chandigarh, in ITA No.784/Chandi/2001, for the assessment year 1998-99, raising the following substantial question of law:

> (i) Whether on the facts and in law, the ITAT was legally justified in setting aside the issue regarding disallowance of interest made by the Assessing Officer on account of interest free loan advanced to Sh. Hans Raj Pahwa and their relatives, utilized for non-business purpose in complete disregard of the decisions of Hon'ble Punjab and Haryana High Court in the case of M/s Abhishek Industries 286 ITR-1.?
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> (ii) Whether on the facts and in law, the ITAT was

justified in deleting the addition made by Assessing Officer of Rs.4,26,762/- on account of expenditure incurred on distribution of silver articles and suit lengths etc amongst the domestic and foreign dealers despite the fact that the assessee failed to prove the expenditure was for the purpose of business?

(iii) Whether on the facts and in law, the ITAT was justified to set aside the issue relating to fresh adjudication of the issue of interest (net) received from customers on delayed payment by directing the AO to excluded 90% of such interest (net) from profit for computing deduction u/s 80 HHC, whereas the Hon'ble jurisdictional High Court of Punjab and Haryana has already observed in the case of Rani Paliwal's case (268/ITR/220) that it is gross interest which is to be deducted from profits of business while computing deduction u/s 80 HHC?

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

02.05.2016/reema