IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 587 of 2007 (O&M)

Date of Decision: 11.04.2016

Commissioner of Income Tax, Faridabad

.......Appellant

Versus

M/s Escorts Dealers Development Association Ltd.

......Respondent

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

Present: Mr. Rajesh Katoch, Advocate for
Mr. Tajender K. Joshi, Advocate
for the appellant.

Mr. Akshay Bhan, Sr. Advocate with
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 17.01.2007 passed by the Income Tax Appellate Tribunal, Delhi Bench-I, New Delhi, in ITA No. 3006/Del/2005, for the assessment year 1997-98, raising the following substantial questions of law:

> (i) Whether in the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in confirming the order of ld. CIT (A) who deleted the disallowance by wrongly holding that the disallowance had been made u/s 154 although it was an order to give appeal effect to the order of the CIT (A)?
>
> (ii) That the ITAT failed to find that the ld. CIT(A) should have appreciated the fact that this addition

was made in the original order u/s 143(3) passed by the Assessing Officer and his order had merged into the order of the CIT(A)?

(iii) That the ITAT failed to find that the ld. CIT(A) further erred in appreciating the fact that the Assessing Officer erroneously gave relief on an addition which was not even contested before CIT (A) and the AO was within his right to pass a corrigendum, whether made u/s 154 is inconquential ?

(iv) That the ITAT, has passed a perverse order without discovering the correct facts of the case and its order should be setaside and that of the Assessing Officer be confirmed?

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

11.04.2016
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