IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 513 of 2006 (O&M)

Date of Decision: 29.03.2016

Commissioner of Income Tax, Chandigarh-II

.......Appellant

Versus

Sh. Sandeep Poddar Prop.

......Respondent

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

Present: Ms. Urvashi Dhugga, Senior Standing counsel 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 24.2.2006 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA Nos.1202 and 1235/CHANDI/2004, for the assessment year 2001-02, raising the following substantial questions of law:

(i) Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT is justified in holding that the assessee was carrying its business of assembly of computer and publication of books at Parwanoo in absence of any reliable and cogent evidence by ignoring the material and evidence on record?

(ii) Whether on the facts and circumstances of the case, the Hon'ble ITAT is justified in arriving the conclusion that the assessee was carrying business at Shed No.90, Sector 1 Parwanoo on the basis of certificates from different authorities and all the certificates contain different addresses of assessee and none of the certificate carry the address of Shed No.90, Sector-1, Parwanoo?

(iii) Whether on the facts and circumstances of the case, the Hon'ble ITAT is justified in holding that manufacturing has also taken place in respect of 167 computers when parts like SMPS, CPU or HDD for manufacturing a computer were not available which is essential for manufacturing of computer and allowing deduction u/s 80-IA of the I.T. Act, 1961?

(iv) Whether on the facts and circumstances of the case, the Hon'ble ITAT is justified in allowing deduction u/s 80-IA in holding that publication of books is manufacturing when assessee is not a publisher and is getting it printed from the places where no deduction u/s 80-IA is available?

(v) Whether on the facts and circumstances of the case, the Hon'ble ITAT is justified in deleting the addition of Rs.14,86,015/- on account of bogus purchase on different conclusion and adopting a different basis which was not the ground of appeal of the assessee and is an action un-jurisdictional?

(vi) Whether on the facts and circumstances of the case, the Hon'ble ITAT is justified in setting aside the addition in resorting the case to the file of the AO on the issue of disallowance u/s 40A(3) when the assessee failed to furnish the address of the party and the additional evidences were furnished before the CIT (A) for the first time without giving any

> reason for its admission, in contravention of Rule 46A of the I.T. Rules, 1962 and despite number of opportunities granted by the AO during the course of assessment?

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, she does not wish to press the present appeal, as the tax effect involved is less than ₹ 20 lacs. However, she 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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