IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 322 of 2008 (O&M)

Date of Decision: 29.03.2016

Commissioner of Income Tax-I, Ludhiana

.......Appellant

Versus

M/s Eastman Industries

......Respondent

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

Present: Mr. Rajesh Katoch, Advocate
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 31.7.2007 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA No.393/CHD/2006, for the assessment year 2000-01, raising the following substantial questions of law:

> (i) Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal is justified in upholding the decision of CIT (A) deleting the addition on account of premium paid to ECGC as this amount was paid for the period from 1.10.1995 to 31.10.1997 and not for the year under consideration?
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> (ii) Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal is justified in upholding the decision of CIT (A) to delete the

addition on account of custom duty as this amount relates to the previous years and was also penal in nature. Therefore, this liability cannot be allowed in the relevant assessment year in accordance with the previous of section 14A of I.T. Act?

(iii) Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal is justified in upholding the decision of CIT (A) to delete the addition on account of disallowance of cash incentives as the assessee has already claimed this amount for deduction u/s 80 HHC and this amount cannot be allowed in the relevant assessment year in accordance with the provisions of section 14 A of I.T. Act?

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

29.03.2016
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