IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 530 of 2008 (O&M)

Date of Decision: 02.05.2016

Commissioner of Income Tax, Ludhiana-II

.......Appellant

Versus

M/s Highway Industries Ltd., Ludhiana

......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 17.7.2007 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (A), in ITA No. 732/Chandi/2006, for the assessment year 2002-03, raising the following substantial questions of law:

> (i) Whether on the facts and in the circumstance of the case the ITAT was justified in restoring back the issue of interest paid on interest free loan advanced to sister concern i.e. M/s Gujrat Cycle Inds. Ltd., to the file of the Assessing Officer despite that the issue is covered in favour of revenue by the decision of jurisdictional High Court in the case of M/s Abhishek Inds. Ltd.,?
>
> (ii) Whether on the facts and in law the ITAT was justified in law in deleting the addition of

₹ 1,26,770/- being expenditure incurred on the foreign travels of the director's wives for non-business purpose?

(iii) Whether on the facts and in law the ITAT was justified in directing the AO to exclude turnover discount, interest income, machinery capitalization, carriage outwards and Misc. income while computing deduction under Section 80 HHC?

(iv) Whether on the facts and in law the ITAT was justified in treating the expenditure incurred on the death anniversary of the Ex Director of the company as admissible expenditure as the expenditure so incurred was not in any way connected with the business of the assessee and a perverse finding?

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
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