IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 960 of 2008 (O&M)

Date of Decision: 11.04.2016

Commissioner of Income Tax, Faridabad ....Appellant

Versus

Shri Raj Singh Yadav

......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 23.5.2008 passed by the Income Tax Appellate Tribunal, Delhi Benches-G New Delhi, in ITA No. 1892/D/06, for the assessment year 2002-03, raising the following substantial questions of law:

(i) Whether, on the facts and in the circumstances of the case, the Hon'ble ITAT is right in law in holding that the transaction of lease of building by Piya Motors to assessee is a genuine transaction especially when the alleged agreement was a veiled agreement as the assessee remained the exclusive owner of the property in the past and future also?

(ii) Whether, on the facts and in the circumstances of the case, the Hon'ble ITAT is right in law in holding that the income from lease of land owned by assessee and from building availed on lease from

Piya Motors is not assessable under the head income from house property and the expenditure incurred by assessee on availing the rights in the land and building are allowable deduction u/s 57 of the Income Tax Act, 1961 especially when the lease deed was a veiled agreement and the assessee had entered into the same to avoid the tax liability?

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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