IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 501 of 2010 (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 22.10.2009 passed by the Income Tax Appellate Tribunal, Delhi Bench-F New Delhi, in ITA No. 101/Del/2009, 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 Ld. ITAT was right in law in confirming the order of the Ld. CIT(A) in deleting the penalty of Rs.12,85,200/- even when the assessee was not able to substantiate his explanation and failed to prove that all facts material to computation of income were disclosed and the provision contained in explanation 1(B) to section 271(1)(c) was applicable on the facts and in the circumstances of the case?

REEMA SAINI
2016.04.26 10:57
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh

(ii) Whether, on the facts and in the circumstances of the case, the Ld. ITAT was right in law in confirming the order of the Ld. CIT(A) in deleting the penalty of Rs. 12,85,200/- even though the penalty is leviable on contravention of the provisions of a civil statute like Income Tax Act and it is settled law that breach of a civil obligation attracts levy of penalty whether the contravention was made by the defaulter with any guilty intention or not and in contradiction to the judgment of the Hon'ble Supreme Court in the case of Union of India and others Versus Dharmendra Textiles Processors and others (2008) 306 ITR 277 (SC)?

(iii) Whether, on the facts and in the circumstances of the case, the Ld. ITAT was right in law in confirming the order of the Ld. CIT(A) in deleting the penalty of Rs.12,85,200/- levied by the Assessing Officer u/s 271(1)(c) of the Income Tax Act, 1961 on the amount of Rs. 42 lcas taxable under the head income from house property instead of income from other sources against which appeal of the Revenue is still pending?

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.

REEMA SAINI
2016.04.26 10:57
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh

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
reema

REEMA SAINI
2016.04.26 10:57
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh