

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM No. 2037-CII of 2016 in/and
ITA No. 734 of 2010
Decided on : 05.02.2016**

The Commissioner of Income Tax, Bathinda

... Appellant

Versus

Smt. Rekha Uppal

... Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. C.S. Singh, Advocate for
Mr. G.S. Hooda, Advocate
for the applicant-appellant.

Mr. Divya Suri, Advocate
for the non-applicant/respondent.

AJAY KUMAR MITTAL, J. (Oral)

CM No. 2037-CII of 2016

This is an application under Order 41 Rule 19 read with Section 151 of the Civil Procedure Code for recalling the order dated 30.11.2015, whereby, the present appeal was dismissed for want of prosecution.

Notice of this application.

Mr. Divya Suri, Advocate, accepts notice on behalf of the non-applicant/respondent and states that he has no objection if the present appeal is restored.

After hearing learned counsel for the parties and perusing the averments made in the application, which is supported by an affidavit of the learned counsel for the applicant-appellant, the same is allowed and the appeal is ordered to be restored to its original number.

CM stands disposed of.

ITA No. 734 of 2010

At the oral request of learned counsel for the parties, the main appeal is taken up for hearing today.

2. Learned counsel for the appellant-revenue states that since the tax effect involved is ₹ 6,04,687/-, he has instructions to withdraw the present appeal in view of the circular No.21/2015, dated 10.12.2015 issued by the C.B.D.T., New Delhi. However, he prayed that liberty be granted to the revenue to file an application for revival of the appeal in case something survives therein.

3. Dismissed as withdrawn with liberty as prayed for. It is, however, clarified that withdrawal of the appeal by the revenue shall not be taken to be affirmation of order of the Tribunal on merits. Further, the legal issue as claimed by the revenue is being left open to be adjudicated in an appropriate case.

**(AJAY KUMAR MITTAL)
JUDGE**

**(RAMENDRA JAIN)
JUDGE**

February 05, 2016

J.Ram