IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 229 of 2011 (O&M)

Date of Decision: 11.05.2016

The Commissioner of Income Tax-II, Ludhiana

.......Appellant

Versus

M/s Avon Cycles 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 16.07.2010 passed by the Income Tax Appellate Tribunal, Chandigarh Benches (A) Chandigarh, in ITA No. 768/Chd/2001, for the assessment year 1998-99, raising the following substantial question of law:

> Whether on the facts and in law, the Hon'ble ITAT was legally justified in directing the Assessing Officer to decide the issue in line with the ratio laid down by the Hon'ble Kerala High in CIT Vs. Adab Fisheries (258 ITR 651 (Kerala) wherein Hon'ble Kerala High Court has held that since the amount of unrealized foreign proceeds could not be included in the profit, the same also could not be included in the total turnover for the purposes of Section 80HHC of the 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

11.05.2016
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