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

**ITA No. 90 of 2011 (O&M)**

**Date of Decision: 11.04.2016**

Commissioner of Income Tax-I, Ludhiana

.......Appellant

**Versus**

Smt. Shefali Soni

......Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Rajesh Katoch, 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 30.06.2010 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA No. 1219/CHD/2004, for the assessment year 1996-97, raising the following substantial questions of law:

> (i) Whether on the facts and circumstances of the case, the ITAT is right in law and on facts in dismissing the appeal of the petitioner-revenue in deleting the addition made by Assessing Officer on account of unexplained cash credits and addition of Rs. 27,232/- made on account of unexplained expenditure u/s 69C of the I.T. Act, 1961 by relying on the decision of Hon'ble High Court of Delhi in the case of CIT Vs. Rajesh Kumar 218 CTR (Del) 291 and CIT Vs. Anupam Kapoor 299 ITR 179

(P&H) relied by on its own order in the case of ACIT Vs. Sh. Jagmohan Singh & Family (supra) ignoring the fact that the facts of the two cases are different?

(ii) Whether on the facts and circumstances of the case, the ITAT is right in law and on facts in dismissing the appeal of the petitioner-revenue ignoring the fact that the Hon'ble Punjab and Haryana High Court has decided the same issue in favour of the Department in the case of Shree Paul Jain Vs. Income Tax Officer (supra)?

(iii) Whether on the facts and circumstances of the case, the findings of Tribunal are perverse and against the evidence on record thus unsustainable in law?

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**
**reema**