IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 10 of 2012 (O&M)

Date of Decision: 02.05.2016

Commissioner of Income Tax-I, Ludhiana

.......Appellant

Versus

M/s Cremica Agro Foods Ltd.

......Respondent

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

Present: Mr. Rajesh Katoch, Advocate
for the appellant.

Mr. Alok Mittal, Advocate and
Mr. Abhishek Sanghi, 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 29.7.2011 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (B), in ITA No. 1275/CHD/2010, for the assessment year 2005-06, raising the following substantial question of law:

(i) Whether on the facts and circumstances of the case, the Hon'ble ITAT was justified in law in confirming the order of CIT(A) dated 13.8.2010 by observing that the order of ITAT dated 30.4.2010, quashing the order of the CIT u/s 263 has not been stayed by the Hon'ble High Court whereas the decision of the same is still pending before the Hon'ble High Court?

(ii) Whether on the facts and circumstances of the case, the Hon'ble ITAT was justified in law in not deciding the issue on merits but referred its earlier order dated 30.4.2010 passed on the issue of 263 whereas the Revenue has not accepted the same and is in appeal before the Hon'ble High Court, the decision of which 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.

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

02.05.2016
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