IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 137 of 2012 (O&M)

Date of Decision: 11.05.2016

Commissioner of Income Tax (Central), Gurgaon

.......Appellant

Versus

M/s Crew B.O.S. Products Ltd.

......Respondent

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

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

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 31.10.2011 passed by the Income Tax Appellate Tribunal, Delhi Bench 'B' New Delhi, in ITA No. 4164/Del/2009, for the assessment year 2003-04, raising the following substantial question of law:

> Whether the learned below authorities erred in interpreting the provisions of Section 80 HHC of the Income Tax, 1961 (hereinafter referred to as the "Act") which do not debar the assessee for excluding the export turn over and the total turnover of the 100% EOU unit in respect of which income has been claimed as exempted under Section 10B of the Act while computing deduction under Section 80 HHC 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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