IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-271-2012 (O&M)

Date of Decision: 24.9.2018

Commissioner of Income Tax, Jalandhar-I, Jalandhar

...Appellant.

Versus

M/s Hari Chand & Company, Hoshiarpur

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AVNEESH JHINGAN.

PRESENT: Mr. Vivek Sethi, Sr. Standing Counsel for the appellant.

Mr. Manpreet Singh Kanda, Advocate for the respondent.

AJAY KUMAR MITTAL, J.

1. Learned counsel for the assessee referred to order dated 26.2.2010 (Annexure A-3) passed by the Commissioner of Income Tax (Appeals) [in short "the CIT(A)"], Jalandhar to substantiate that the tax involved in the appeal is less than ₹ 50 lakhs as demanded by the revenue. As per the order of the CIT(A), the income tax demanded was ₹ 39,75,983/-.

2. Learned counsel for the revenue referred to para 7 of the appeal wherein it has been mentioned that the tax effect involved in this case is ₹ 65,07,564/-. On a query being put to learned counsel for the revenue, it was submitted that the tax effect has been calculated on the income assessed at ₹ 88,84,960/- and the addition of ₹ 22,10,000/-. As per the order of the Assessing Officer, the total income assessed is ₹ 1,10,94,960/-. Taking the assessed income at ₹ 1,10,94,960/-, the tax effect thereon would not be ₹ 65,07,564/- as pleaded by the revenue. Accordingly, accepting the plea of

the learned counsel for the assessee, the tax effect is taken to be ₹ 39,75,985/-.

3. Learned counsel for the appellant-revenue states that since the tax effect is taken as ₹ 39,75,985/-, the appeal be dismissed as withdrawn in view of the Circular No.03/2018, dated 11th July, 2018, issued by the Central Board of Direct Taxes, New Delhi.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.

4. Dismissed as withdrawn with liberty as prayed for.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

September 24, 2018
gbs

(AVNEESH JHINGAN)
JUDGE

Whether Speaking/Reasoned Yes/No
Whether Reportable Yes/No