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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.126 of 2016 (O&M)
Date of decision : 21.08.2018

The Principal Commissioner of Income-Tax, Patiala

... Appellant

Versus

M/s Mandi Alloys (P) Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Zora Singh Klar, Advocate
for the appellant.

Mr. Rishabh Kapoor, Advocate
for the respondent.

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RAJESH BINDAL, J.

The appellant in the present appeal has challenged the order dated 27.11.2015 passed by the Income Tax Appellate Tribunal, Division Bench, Chandigarh, arising out of Appeal No.222/CHD/2015 for the assessment year 2005-06, raising the following substantial questions of law:-

"(i) "Whether on facts and circumstances of the case, the Hon'ble ITAT was correct in law in upholding the decision of the Ld. CIT (A) in deleting the addition of ₹94,00,000/- made by the AO on account of unexplained subscription to share capital of the assessee company."

ii) "Whether on the facts and circumstances of the case, the Hon'ble ITAT was correct in law in deleting the above addition, failing to appreciate that cash was deposited in the bank accounts of the companies subscribing to the share capital and cheques were issued against the same?"

iii) "Whether on facts and circumstances of the case, the Hon'ble ITAT was correct in law in deleting the addition by relying on the decision of the Hon'ble Supreme Court in the case of M/s Stellar Investments Ltd. 251 ITR 263, failing to appreciate that the facts of the instant case are totally different from that case?"

iv) "Whether on facts and circumstances of the case, the Hon'ble ITAT was correct in law in deleting the addition by relying on the decision of the Hon'ble Supreme in the case of M/s Lovely Exports (P) Ltd., 2016 CTR 195, failing to appreciate that the facts of the instant case are totally different from that case?"

v) "Whether on facts and circumstances of the case, the Hon'ble ITAT was correct in law in not appreciating that the referred case laws pertain to Public Limited companies, whereas the present case is that of closely held Private Limited Company?"

vi) "Whether on facts and circumstances of the case, the Hon'ble ITAT was correct in law in not following the judgment of the Hon'ble Delhi High Court in the case of CIT Vs. Nova Promoters & Finlease Pvt. Ltd., 342 ITR 369?"

At the very outset, learned counsel for the appellant did not dispute the fact that the amount involved in the present appeal is ₹34,39,695/-. As the amount involved is less than the limit prescribed in the Circular issued by the Central Board of Direct Taxes dated 11.07.2018, the present appeal be dismissed as not maintainable.

Ordered accordingly.

However, it is made clear that dismissal of present appeal will not be taken as upholding the order passed by the Tribunal as the legal issue raised therein is left open to be considered in an appropriate case.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

21.08.2018
Yogesh Sharma

✓
Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**