IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.314 of 2017 (O&M)
Date of Decision.07.09.2018

Pr. Commissioner of Income Tax (Central), Gurgaon ...Appellant

Vs

M/s Manohar Infrastructure ...Respondents

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

Present: Mr. Rajesh Sethi, Senior Standing Counsel
Ms. Varinder Kaur Waraich, Advocate &
Mr. Tushar Gera, Advocate
for the appellant.

Mr. Akshay Bhan, Senior Advocate with
Mr. Amandeep Singh Talwar, Advocate
for the respondent.

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RAJESH BINDAL J.

The revenue is in appeal against the order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh in ITA No.729/CHD/2016 dated 09.11.2016 for the assessment year 2011-12, raising the following substantial questions of law.

"1. Whether on the facts and circumstances of the case in law, the ITAT has erred in deleting the penalty imposed u/s 271AAA of the Income Tax Act, 1961 despite the factual decision of the Assessing Officer that the assessee has failed to substantiate the provisions of section 271AAA by not satisfying the conditions laid therein?

2. Whether the findings have been recorded by ITAT on misreading and misrepresentation of facts and evidence emanating on record?

3. Whether the ITAT did not commit grave error in arriving at such conclusion after adopting erroneous criteria and by importing such facts and circumstances which are contrary to record?"

Learned counsel for the appellant-revenue states that since the tax effect involved is ₹ 24,05,192/-, he has instructions to withdraw the present appeal in view of Circular No.03/2018 dated 11.07.2018 issued by the Central Board of Direct Taxes, New Delhi. However, he has prayed that liberty to be granted to the revenue to file an application for revival of the appeal in case something survives therein.

Dismissed as withdrawn with liberty as prayed for.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.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

September 07, 2018
Pankaj*

Whether speaking/reasoned	**Yes/No**
Whether reportable	**Yes/No**