

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No. 539/Del/2014  
Assessment Year: 2009-10**

DCIT, CIRCLE 12(1)  
New Delhi

**(APPELLANT)**

vs. M/s Hitkari Industries Ltd.,  
E-44/5, Okhla Industrial Area,  
Phase-II, New Delhi – 20  
**(PAN: AAACH6856L)**  
**(RESPONDENT)**

Appellant by : Sh. Robin Rawal, Sr. DR  
Respondent by : None

**Date of Hearing : 08-1-2016  
Date of Order : 08-1-2016**

**ORDER**

**PER H.S. SIDHU, J.M.**

This appeal by the Department is directed against the Order dated 22.11.2013 of Ld. CIT(A)-V, New Delhi pertaining to assessment year 2009-10 on the following grounds:-

- “1. Whether Ld. CIT(A) was correct on facts and circumstances of the case and in law in deleting the addition of Rs. 14,95,654/- made by the AO u/s. 36(1)(iii) of the I.T. Act, ?*
- 2. Whether the Ld. CIT(A) was correct on facts and circumstances of the case and in law in deleting the addition of Rs. 11,60,777/- made by the AO u/s. 14A r.w.r. 8D?*
- 3. The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of the hearing.”*

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor his authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and

circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal exparte qua assessee, after hearing the Ld. DR and perusing the records.

3. We find that Revenue in the Grounds of Appeal before the Tribunal has challenged the deletion of addition of Rs. 14,95,654/- and Rs. 11,60,777/- vide ground no. 1 & 2 respectively, as aforesaid.

4. From the above, we find that the tax effect in the Revenue's Appeal is less than Rs.10,00,000/-, therefore, the Department's Appeal is not maintainable, in view of the Circular No. 21/2015 dated 10<sup>th</sup> December, 2015 issued vide F.No. 279/Misc. 142/2007-ITJ (Pt.) by the CBDT. For the sake of convenience, the relevant para nos. 3 & 10 of the aforesaid CBDT's Circular are reproduced as under:-

***“3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:***

<b>S No</b>	<b>Appeals in Income-tax matters</b>	<b>Monetary Limit (in Rs)</b>
<b>1</b>	<b>Before Appellate Tribunal</b>	<b>10,00,000/-</b>
<b>2</b>	<b>Before High Court</b>	<b>20,00,000/-</b>
<b>3</b>	<b>Before Supreme Court</b>	<b>25,00,000/-</b>

***It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.***

***10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed. Appeals before the Supreme Court will be governed by the instructions on***

*“this subject, operative at the time when such appeal was filed.”*

5. It is not in dispute that the Board’s instruction or directions issued to the income-tax authorities are binding on those authorities, therefore, the Department should have withdrawn/ not pressed the present Appeal, in view of the aforesaid instructions since the tax effect in the instant Appeal is less than the amount of Rs. 10 lacs, prescribed in the above said CBDT’s Instructions.

6. Keeping in view the CBDT Instruction No. 21/2015 dated 10<sup>th</sup> December, 2015, we are of the view that the Revenue should have withdrawn/ not pressed the instant appeal before the Tribunal. We are also of the view that the said Instructions are applicable for the pending appeals and appeals to be filed henceforth in Tribunal. Accordingly, the Revenue’s Appeal is dismissed.

7. In the result, Appeal filed by the Revenue Stands dismissed.  
Order pronounced in the Open Court on 08/01/2016.

**Sd/-**

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

**Sd/-**

**(H.S. SIDHU)  
JUDICIAL MEMBER**

Dated: 08/01/2016

**\*SR BHATNAGAR\***

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

TRUE COPY

By Order,

**ASSISTANT REGISTRAR**

