

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", NEW DELHI
BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER**

**ITA No.5882/Del/2016
Assessment Year : 2009-10**

ITO Ward-2, Palika Building, G.T. Road, Panipat PAN : AIVPK7011N	Vs.	Karun Kumar Prop. Sai & Sharma Construction Company, Shop no. 29, Lal Tanky Market, Model Town, Panipat
(Appellant)		(Respondent)

Respondent by : Shri S.K. Jain, Sr. DR

Appellant by : Shri S.B. Gupta, Advocate

Date of hearing : 31-01-2017

Date of pronouncement : 31-01-2017

ORDER

PER S.V. MEHROTRA, A.M :

1. The Revenue has filed this appeal against the order of the CIT (A), Karnal dated 21.9.2016 A.Y. 2009-10.
2. At the time of hearing the Ld. Counsel for the assessee filed Income Computation form to demonstrate that the tax effect in the appeal filed by Department is only Rs. 7,20,154/- and, thus, less than Rs. 10 lac. The chart is reproduced hereunder:-

	Income tax, Edu.Cess & Surcharge	Intt. U/s 234A	Intt. U/s 234B	Intt. U/s 234C	Intt. U/s 234D	Intt. U/s 244A	Total
Tax Due	681895 +68190 +22503	-	321912	-	76053	30151	1200704
Tax charged u/s 143(1)	49936 + 1498	-	-	-	-	-	51434
Balance tax	631959 +68190 +21005		1 321912	-	76053	30151	149270

3. From the aforementioned computation, it is evident that the tax effect is less than Rs. 10 lakhs. As per CBDT Circular No.21/2015 dated 10th December 2015, the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.10,00,000/- and this factual position has been fairly conceded by the Ld. D.R. The Ld. A.R. contended that the appeal of the Revenue may be dismissed in the light of CBDT Circular (supra).

4. I have heard parties on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted as under:

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

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

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. In view of the CBDT Circular No.21 dated 10.12.2015 having retrospective effect and what has been discussed above, I am of the considered view that the aforesaid appeal is not maintainable because of low tax effect i.e. less than Rs.10,00,000/-. Hence, the aforesaid appeal filed by the Revenue is hereby dismissed having become infructuous.

6. In the result, the assessee's appeal is dismissed.

7. Order pronounced in the open court on this 31st day of January, 2017.

(S.V. MEHROTRA)
ACCOUNTANT MEMBER

Dated : 31-01-2017.

Narender

Copy of order to: -

- 1) The Appellant;
- 2) The Respondent;
- 3) The DRP-I, New Delhi;
- 4) The DR, I.T.A.T., New Delhi;

By Order

Assistant Registrar
ITAT, New Delhi

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	31.1.2017		Sr. PS/PS
2	Draft placed before author	31.1.2017		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	File sent to Bench Clerk			Sr. PS/PS
8	Date on which the file goes to the Head Clerk			
9	Date on which file goes to the A.R.			
10	Date of Dispatch of order			