

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

**ITA Nos. 2717 to 2718/Del/2010
Assessment Years: 2001-02 to 2002-03**

ACIT-CC-12,
ROOM NO. 330, ARA CENTRE,
JHANDEWALAN EXTN.,
NEW DELHI
(Appellant)

vs. SH. RAJ KUMAR JAIN,
H-78, SOUTH EXTENSION,
PART-I, NEW DELHI
(PAN: AALPJ6435F)
(Respondent)

Appellant by : Sh. Pankaj Vidyarthi, CIT(DR)
Respondent by : None

Date of Hearing : 18-08-2016

Date of Order : 05-09-2016

ORDER

PER H.S. SIDHU, J.M.

These two appeals filed by the Department are directed against the separate Orders both dated 31.3.2010 of Ld. CIT(A)-I, New Delhi pertaining to assessment years 2001-02 to 2002-03. Since the issue involved in the these appeals are common and identical, hence, they are being consolidated and disposed of by this common order for the sake of brevity.

2. The common ground raised in both these appeals read as under:-

- “1. The order of the Ld. CIT(A) is not correct in law and facts.
2. On the facts and circumstances of the case, the Ld. CIT(A) was wrong in accepting additional evidences in utter contravention of Rule 46-A as enough opportunities were provided to the assessee during the course of assessment proceedings.
3. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law and facts of the case in allowing relief by way of treating the unaccounted income as agricultural income whereas

Hon'ble ITAT in the case of father of the assessee Shri Mahabir Prasad Jain ITA Nos. 2967 to 2973/del/2008 has ruled that assessee has to produce evidence of indulging in agricultural activities during the year under consideration.

4. The appellant craves leave to add, alter or amend any / all of the grounds of appeal before or during the course of the hearing of the appeal."

3. 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 *ex parte* qua assessee, after hearing the Ld. DR and perusing the records.

4. We have heard the Ld. DR and perused the material on record. At the threshold, we find that the tax effect in the Revenue Appeals is less than Rs.10,00,000/-, therefore, the Department's Appeals are not maintainable, in view of the Circular No. 21/2015 dated 10th 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:

S No	Appeals in Income-tax matters	Monetary Limit (in 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. 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 10th 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.

7. In the result, both the Appeals filed by the Revenue stand dismissed.

Order pronounced in the Open Court on 05/09/2016.

SD/-

**(O.P. KANT)
ACCOUNTANT MEMBER**

SD/-

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

Dated: 05/09/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR