

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F' : NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.542/Del/2014  
Assessment Year : 2004-05

Income Tax Officer,  
Ward-29(2),  
New Delhi.

(Appellant)

Vs. Shri Rajesh Khanna,  
E-18, East of Kailash,  
New Delhi – 110 065.  
PAN : AASPK0277B.  
(Respondent)

Appellant by : Ms. Susan D. George, Senior DR.  
Respondent by : None.

Date of hearing : 26.05.2016  
Date of pronouncement : 26.05.2016

**ORDER**

**PER G.D. AGRAWAL, VP :-**

This appeal by the Revenue for the assessment year 2004-05 is directed against the order of learned CIT(A)-1, New Delhi dated 21<sup>st</sup> November, 2013.

2. At the time of hearing before us, nobody appeared on behalf of the assessee-respondent. This appeal of the Revenue is, therefore, being disposed of ex-parte qua the assessee-respondent on merits after hearing the arguments of learned Senior DR.

3. It is observed that the tax effect involved in this appeal by the Revenue is below ₹10 lakhs. The CBDT in its Circular No.21/2015 dated 10<sup>th</sup> December, 2015 has revised the monetary limit for filing of the departmental appeals to the ITAT at ₹10 lakhs which is evident from paragraph 3 of the Circular, which reads as under:-

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

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

*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.”*

4. In paragraph 10 of the Circular, such monetary limits have been made applicable retrospectively. For ready reference, we reproduce paragraph 10 below:-

*“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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.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. Therefore, the above Circular would be squarely applicable to the appeal under consideration before us.

6. Learned Senior DR who appeared at the time of hearing before us stated that she needs some time to call for the report from the Assessing Officer as well as instructions from Administrative CIT for withdrawing this appeal because the appeal was filed with the approval of Administrative CIT. Learned DR further pointed out that in paragraph 7 of the said Circular, it has been clarified by the CBDT that

withdrawal of this appeal by the Revenue on account of low tax effect should not be considered as a precedent in the subsequent years of the acceptance of issues involved in this appeal and, therefore, if in the subsequent year similar issue arises before the ITAT where the appeal is above the tax limit as prescribed in this Circular, the same should be decided on merits.

7. After considering the submissions of the learned DR, we are of the opinion that there is no necessity for adjourning the appeal and calling the report from the Assessing Officer because, apparently, the tax effect involved in this appeal of the Revenue is below ₹10 lakhs. However, we add here that if on receipt of order the Assessing Officer finds that the tax effect is above ₹10 lakhs or, in any other manner, the Circular is not applicable, he will be at liberty to file the miscellaneous application. We also agree with the contention of the learned DR that this order would not be considered as an acceptance by the Revenue on the issue involved in this appeal and will not be an estoppel for the Revenue to take up the issue involved in this appeal before the ITAT on merits if the tax effect in those years is more than ₹10 lakhs. With this remark, we deem it proper to dismiss the appeal in the light of the Circular No.21/2015 of CBDT dated 10<sup>th</sup> December, 2015.

8. In the result, the appeal of the Revenue is dismissed.  
Decision pronounced in the open Court on 26.05.2016.

Sd/-

**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

Sd/-

**(G.D. AGRAWAL)**  
**VICE PRESIDENT**

VK.

Copy forwarded to: -

1. Appellant : **Income Tax Officer, Ward-29(2), New Delhi.**
2. Respondent : **Shri Rajesh Khanna, E-18, East of Kailash,  
New Delhi – 110 065.**
  
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar