

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC-2', NEW DELHI**

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER**

**ITA No. 408/Del/2015**

**AY: 2007-08**

ITO, Ward 67(3)  
New Delhi

vs. Sh. CK Bhatia  
Block – C4D/18A, Janakpuri  
New Delhi 110 058

PAN: ACTPB 2831 P

(Appellant)

(Respondent)

Appellant by : Smt.Rakhi Vimal, JCIT, Sr.D.R.

Respondent by : None

**ORDER**

This is an appeal filed by the Revenue directed against the order of Ld.CIT(A)-XIII, New Delhi pertaining to the ↓Assessment Year 2007-08.

**2.** None was present on behalf of the assessee. I have heard Smt. Rakhi Vimal, Ld.JCIT, Sr.D.R. on behalf of the Revenue. On a query from the Bench the Ld.Sr.D.R. contended that the tax effect in the case on hand is more than the limit prescribed by the CBDT at the time of filing of the appeal and that the fresh Circular of the CBDT clearly mentions that the tax effect limit of Rs.4 lakhs is prospective in nature and hence the limits prescribed in the Circular cannot be applied to appeals filed for the earlier Assessment Years i.e. 1999-2000. It was contended that the limit applies to appeals filed after the date of the Circular.

**3.** After hearing the Ld.Sr.D.R. and perusing the material on record I hold as follows. The Tribunal, in the case of “DCIT vs. Sushila Saraogi (2014) (11) TMI 294” ITAT Kolkata, after considering the precedents on the subject, held that the Instruction no.5/14, issued by the CBDT on 10.7.2014 is applicable to the pending appeals. The Tribunal followed the proposition laid down in the judgements of various High Courts, including the two judgements of the Jurisdictional High Court in the case of CIT vs. M/s PS Jain & Co. in ITA 179/1991 dt. 2.8.2010 and in the case of CIT vs. Delhi Race Club Ltd. dt. 3.3.2011. In the instant case, the tax effect is below Rs. 4 lacs. It is to be mentioned that the Ld.Sr.DR was unable to point out any exceptional circumstances, mentioned in Board Instruction no.5 of 2014 that have led to filing of this appeal, despite the fact that the monetary limit being below the prescribed limit.

**3.1.** Even otherwise on merits the issue is covered in favour of the assessee and against the Revenue by various judgements of the Tribunals and High Courts some of which have been listed by the Ld.CIT(A) at page 4 and 5 of this order. The Hon’ble Bombay High Court in the case of SBI Exit Office Associations, Mumbai vs. CBDT in W.P.No.1718/2011 dt. 17.8.2012 had held the issue in favour of the assessee.

**5.** In the result the appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on 15<sup>th</sup> October, 2015.

**Sd/-**

**(J. SUDHAKAR REDDY)  
ACCOUNTANT MEMBER**

Dated: the 15<sup>th</sup> October, 2015

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Copy forwarded to: -

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

TRUE COPY

By Order,

**ASSISTANT REGISTRAR**