

**आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ , मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND**

**SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

**आयकर अपील सं/ I.TA No. 791/Mum/2012**

**(निर्धारण वर्ष / Assessment Year:2008-09**

The ACIT-25(2), C-11-Pratyakshakar Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai-4000 051	<b>बनाम/</b> Vs.	Mrs. Priti R. Jaggi, 1702, Krishna Heritage, Link Road, Opp. Don Bosco School, Borivali (W),Mumbai-400 092
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**C.O. No. 229/Mum/2014**

**(Arising out of ITA No. 791/M/2012**

**Assessment Year:2008-09**

Mrs. Priti R. Jaggi, 1702, Krishna Heritage, Link Road, Opp. Don Bosco School, Mumbai-400 092	<b>बनाम/</b> Vs.	The ACIT-25(2), C-11-Pratyakshakar Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai-4000 051
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**स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AFPPJ 5440N**

<b>(अपीलार्थी /Appellant)</b>	<b>..</b>	<b>(प्रत्यर्थी / Respondent)</b>
अपीलार्थी ओर से/ Revenue by:		Shri K.Ravi Kiran
प्रत्यर्थी की ओर से/Assesee by:		None

**सुनवाई की तारीख / Date of Hearing :22.12.2015**

**घोषणा की तारीख /Date of Pronouncement :22.12.2015**

**आदेश / ORDER**

**PER N.K. BILLAIYA, AM:**

This is an appeal filed by the Revenue and the Cross Objection filed by the assessee are directed against the very same order of the Ld. CIT(A)-35, Mumbai dated 29.11.2011.

2. The grounds raised by the Revenue read as under:

*(1) On the facts and in the circumstances of the case, and in law, the Id.CIT(A) erred in deleting the addition made by the Assessing Officer on account of disallowance of commission expenses u/s.40(a)(ia) of the Act without appreciating the fact that the assessee has credited the commission on 30.06.2007 whereas the provisions of the section 194H of the Act have been amended w.e.f. 01.06.2007.*

*(2) On the facts and in the circumstances of the case, and in law, the Id.CIT(A) erred in deleting the addition partly made by the Assessing Officer on account of disallowance of payment made to M/s.Reliable Travels and Cargo Pvt. Ltd. for non-deduction of TDS without appreciating the fact that the payment made to M/s.Reliable Travels and Cargo Pvt. Ltd. is in the nature of contract payment and duly covered as per provisions of section 194C of the Act.*

*(3) On the facts and in the circumstances of the case and in law, the Id.CIT(A) erred in deleting the addition made by the Assessing Officer on account of disallowance of interest for non-deduction of TDS without appreciating the fact that the provisions of section 194A(3) of the Act are in the nature of statutory obligation on the part of the assessee.*

*(4) On the facts and in the circumstances of the case and in law, the Id.CIT(A) erred in deleting the addition made by the Assessing Officer on account of disallowance out of foreign travelling expenses without appreciating the fact that the assessee incurred these expenses on the family members of employees of ONGC which is not allowable.*

3. Before going into the merits of the case, let us first consider CBDT's latest instructions vide Circular No.21/2015 dated 10/12/2015, the relevant portion of which read as under:-

*“ Circular No. 21/2015  
F No 279/Misc. 142/2007-ITJ (Pt)*

*Government of India  
Ministry of Finance Department of Revenue  
Central Board Direct Taxes*

*New Delhi the 10th December, 2015*

*Subject: Revision of monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal and High Courts and SLP before Supreme Court - measures for reducing litigation - Reg -*

*Reference is invited to Board's instruction No 5/2014 dated 10.07.2014 wherein monetary limits and other conditions for filing departmental appeals (in Income-tax matters) before Appellate Tribunal and High Courts and SLP before the Supreme Court were specified.*

*2. In supersession of the above instruction, it has been decided by the Board that departmental appeals may be filed on merits before Appellate Tribunal and High Courts and SLP before the Supreme Court keeping in view the monetary limits and conditions specified below.*

*3. Henceforth, appeals/ 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 the case in hand, the total demand as per CIT(A)'s order is less than the amount of Rs. 10,00,000/-, which is below the monetary limits as*

mentioned in CBDT Circular dated 10.12.2015 (supra). Following the same, this appeal of the Revenue is dismissed.

5. Since the Revenue's appeal is dismissed the Cross objection filed by the assessee become otiose.

6. In the result, the appeal filed by the Revenue and the Cross objection filed by the assessee are dismissed.

Order pronounced in the open court at the time of hearing on 22<sup>nd</sup> December, 2015.

Sd/-

Sd/-

**(SAKTIJIT DEY)**

**(N.K. BILLAIYA)**

न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 22<sup>nd</sup> December, 2015

व.नि.स./ Rj, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,  
मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार**

(Dy./Asstt. Registrar)

**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**