

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

ITA NO. 7063/MUM/2013 : (Assessment Year : 2005-06)

ITO – 21(3)(1),
Mumbai (Appellant)

Vs Smt. Bakula Hematlal Badani
B/704, Lotus Building,
Hiranandani Gardens, Powai,
Mumbai 400 076 (Respondent)
PAN : AAEPB6106A

Appellant by : Shri Naveen Gupta (DR)
Respondent by : Shri Navin B. Gandhi

Date of Hearing : 14/01/2016

Date of Pronouncement : 14/01/2016

ORDER

PER AMIT SHUKLA, JM :

1. The aforesaid appeal has been filed by the Revenue against the impugned order dt. 6.9.2013, passed by CIT(A)-22, Mumbai for the quantum of assessment passed u/s 143(3) r.w.s 147 for the A.Y 2005-06. In the grounds of appeal, the Revenue has challenged the deletion of addition of Rs.16,07,145/- as income from undisclosed sources and Rs. 8,036/- being commission payable for taking accommodation entries.

2. At the outset, the ld. Counsel for the Assessee submitted that, the tax effect on the disputed additions are much less than Rs. 10 lacs, therefore, in view of the latest CBDT Circular No. 21 of 2015 dt. 10.12.2015, the appeal of the Revenue should be held to be not maintainable. The ld. DR also admitted that the tax effect is less than Rs. 10 lacs.

3. After considering the tax effect on the disputed additions, we find that it is much below Rs. 10 lacs and, therefore, in view of CBDT circular (*supra*) the appeal of the Department is treated to be not maintainable. The relevant para no. 10 of the CBDT circular specifically provides that the said instructions shall apply retrospectively, which for the sake of ready reference is reproduced hereinbelow.

“10. This instruction will apply retrospectively to pending 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.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.”

4. Accordingly, the appeal of the Revenue is treated as dismissed.

Order pronounced in the open court on 14th January, 2016.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai, Date : 14th January, 2016

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A)-22, Mumbai
- 4) The ITO – 21(3)(1), Mumbai
- 5) The D.R, “B” Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai