

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH - 'E', NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI ANADI N. MISHRA, ACCOUNTANT MEMBER

ITA No. 2597/Del/2014
AY: 2005-06

DCIT CENTRAL CIRCLE-03, NEW DELHI (Appellant)	vs. M/s Mahagun Technologies Pvt. Ltd. 66, Vivek Vihar, Delhi-95 (PAN: AACCB3143L) (Respondent)
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Appellant by : Ms. Deepika Mittal, CIT(DR)

Respondent by : None

Per ANADI N. MISHRA, Accountant Member

ORDER

This appeal has been filed by Revenue against order dated 28.2.2014 of Ld. CIT(A) - IV, New Delhi. The grounds of appeal are as under:

- “1. That the CIT(A) has erred in law and on facts of the case in treating the addition made to be beyond the scope of section 153A of the I.T. Act.*
- 2. That the CIT(A) erred in law and on facts of the case in holding that the original assessment cannot be disturbed as there was no incriminating material found during search.*
- 3. That the CIT(A) erred in law and on facts of the case deleting the addition of Rs. 19,18,000/- made by AO on account of unexplained investment in share application money u/s. 68 of the I.T. Act, 1961.*
- 4. (a) The order of the CIT(A) is erroneous and not tenable in law and on facts.*
(b) The appellant craves leaves to add, alter or amend any / all of the grounds of appeal or during the course of hearing of the appeal.

2. During the course of hearing, the assessee was not represented by any authorized representative. We have heard the learned CIT (DR) who appeared on behalf of Revenue, and we have also perused the materials on record. From the above, we find that the tax effect in Revenue's Appeal is less than Rs.10,00,000/- . Therefore, this appeal is covered by Instruction No. 21/2015 dated 10th December, 2015 of CBDT, issued vide F.No. 279/Misc. 142/2007-ITJ (Pt.) . For the sake of convenience, the relevant portion of the aforesaid CBDT Circular is 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:

<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.

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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.”

3. We are of the view that the aforesaid CBDT Instruction No. 21/2015 dated 10th December, 2015 is applicable for the pending appeals filed by Revenue, as well as for the appeals to be filed by Revenue henceforth. In view of the aforesaid Instruction, therefore, Revenue should have withdrawn / not pressed the present Appeal, since the tax effect in the instant appeal is less than the prescribed limit of Rs. 10,00,000/- , specified in the aforesaid CBDT Instruction No. 21/2015 dated 10th December, 2015.

4. In view of the foregoing, we conclude that the appeal is inconsistent with the aforesaid CBDT Instruction No. 21/2015 dated 10th December, 2015; and hold that the appeal is, therefore, not maintainable. Accordingly, we dismiss the appeal *in limine*, appeal being not maintainable; without going into the merits.

5. In the result, this appeal, filed by Revenue; stands dismissed.

sd/-

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

sd/-

**(ANADI N. MISHRA)
ACCOUNTANT MEMBER**

Dated: 2nd August,2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR