

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

**ITA No. 3357/Del/2012
Assessment Year: 2009-10**

ACIT, Circle 17(1),
Room No. 221, 2nd floor,
CR Bldg., IP Estate,
New Delhi

vs. M/s Vashulinga Synthetics
Pvt. Ltd. (Now known as
M/s Castleton Capital
Limited), 1004, Chiranjiv
Towers, 43, Nehru Place,
New Delhi – 110 019
(PAN: AABCV5623Q)

(APPELLANT)

(RESPONDENT)

Appellant by : Ms. Sulekha Verma, CIT(DR)
Respondent by : Sh. K.P. Garg, CA

Date of Hearing : 26-05-2016

Date of Order : 01-06-2016

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 09.4.2012 of Ld. CIT(A)-XIX, New Delhi pertaining to assessment year 2009-10 on the following grounds:-

1. *Ld. CIT(A) erred in law and on the facts of the case in deleting the addition of Rs. 25,00,000/- made by the AO under section 68 of the I.T. Act, 1961 without appreciation the observation of the AO that the amount was not reflected in the balance sheets of the alleged investors and there was huge cash deposit in the bank account of the investor immediately before issuing the cheques.*

2. *The appellant craves for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of appeal.”*

2. We have heard both the parties and perused the material on record. From the above, we find that the tax effect in the Revenue's Appeal is less than Rs.10,00,000/-, therefore, the Department's Appeal is not maintainable, in view of the Circular No. 21/2015 dated 10th December, 2015 issued vide F.No. 279/Misc. 142/2007-ITJ (Pt.) by the CBDT. For the sake of convenience, the relevant para nos. 3 & 10 of the aforesaid CBDT's Circular are 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:

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

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.

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. It is not in dispute that the Board's instruction or directions issued to the income-tax authorities are binding on those authorities, therefore, the Department should have withdrawn/ not pressed the present Appeal, in view of the aforesaid instructions since the tax effect in the instant Appeal is less than the amount of Rs. 10 lacs, prescribed in the above said CBDT's Instructions.

4. Keeping in view the CBDT Instruction No. 21/2015 dated 10th December, 2015, we are of the view that the Revenue should have withdrawn/ not pressed the instant appeal before the Tribunal. We are also of the view that the said Instructions are applicable for the pending appeals and appeals to be filed henceforth in Tribunal. Accordingly, the Revenue's Appeal is dismissed.

5. In the result, Appeal filed by the Revenue Stands dismissed.

Order pronounced in the Open Court on 01/06/2016.

Sd/-

**(O.P. KANT)
ACCOUNTANT MEMBER**

Sd/-

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

Dated: 01/6/2016

SR BHATNAGAR

Copy forwarded to: -

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

By Order,

ASSISTANT REGISTRAR