

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 5107/Del/2013
Assessment Year: 2008-09**

DCIT, CIRCLE-17,
NEW DELHI

vs. M/s VIPUL LTD.,
VIPUL TECH SQUARE,
GOLF COURSE ROAD,
SECTOR-43, GURGAON

(APPELLANT)

**(PAN: AAACA5396C)
(RESPONDENT)**

Appellant by : Sh. S.K. Jain, Sr. DR
Respondent by : Sh. Rajesh Arora, CA

Date of Hearing : 08-2-2016

Date of Order : 08-2-2016

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 15.5.2013 of Ld. CIT(A)-III, New Delhi pertaining to assessment year 2008-09 on the following grounds:-

- “1. Ld. CIT(A) erred in law and on the facts of the case in directing the AO to adjudicate the grounds of appeal relating to the addition made u/s. 14A read with rule 8D, without appreciating that it is the CIT(A) who is an adjudicating authority. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in annulling the assessment u/s. 143(3) by holding that no search warrant was issued in the name of the assessee. The CIT(A) has not given any findings on the merit or demerit of the case, especially the disallowance of Rs. 32,44,233/- made u/s. r.w.r. 8D in the order giving effect to the CIT(A)'s order dated 4.1.2012.*

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

2. At the threshold, Ld. Counsel of the Assessee stated that the tax effect in this appeal is less than the prescribed limit fixed by the CBDT, hence, the Revenue’s Appeal is not maintainable and may be dismissed accordingly.

2.1 On the other hand, Ld. DR did not controvert the submissions made by the Ld. Counsel of the assessee.

3. We have heard both the parties and perused the records. We find considerable cogency in the submissions of the Ld. Counsel of the assessee 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.”

4. 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.

5. 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.

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

Order pronounced in the Open Court on 08/02/2016.

Sd/-

(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 08/2/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR