

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH 'SMC', KOLKATA
(Before Shri P. M. Jagtap, Accountant Member)**

ITA No. 298 to 301/Kol/2014 : Asstt. Year : 2006-2007 to 2009-10

ITO, Ward-12(3), Kolkata	Vs	M/s. Rameswara Niket Services Pvt. Ltd. PAN: AACCR 5834N
(APPELLANT)		(RESPONDENT)

**Appellant by : Shri Debasish Lahiri, JCIT, Sr.DR
Respondent by : Shri Anikesh Banerjee, Advocate**

Date of Hearing : 15.09.2015	Date of Pronouncement : 15.09.2015
-------------------------------------	---

ORDER

These four appeals filed by the Revenue are directed against the four separate orders all dated 21.11.2013 passed by the Id. Commissioner of Income-Tax (Appeals)-XII, Kolkata dated 11.02.2013 for the assessment year 2006-07 to 2009-10, whereby he treated the rental income received by the assessee company as its business income as against income from house property as treated by the AO.

2. I have heard the arguments of both the sides and also perused the relevant material records. As pointed out by the Id. Counsel for the assessee at the outset, the tax effect involved in each of these four appeals preferred by the Revenue is less than the monetary limit of Rs. 3 lakhs fixed by the CBDT vide Instruction no.3/2011 dated 09.02.2011 for filing the appeals before the Tribunal and this position clearly

evident from the working filed by the Id. Counsel for the assessee is not disputed even by the Id. DR. Under section 268A(1) inserted in the Statute by the Finance Act, 2008 with retrospective effect from 01.04.1999, the Central Board of Direct Taxes has been authorized to issue orders, instructions or directions to the income-tax authorities laying down the monetary limits for the purpose of filing appeals. As held by the Honøble Punjab & Haryana High Court in the case of CIT-vs- Oskar Laboratories Pvt. Ltd. 324 ITR 115, consequent to the insertion of section 268A in the Income-Tax Act, 1961, orders, instructions or directions issued on the subject of monetary limits for filing the appeals must be deemed to have attained statutory status and there can be no dispute that every requirement under the mandate of law leads to a consequential statutory obligation to comply with the requirement. In the case of Oskar Laboratories Pvt. Ltd. (*supra*) before the Honøble Punjab & Haryana High Court, the appeal filed by the Revenue before the Tribunal involved the tax effect of less than the monetary limit prescribed in the instruction issued by the CBDT and the said appeal was held to be not maintainable by the Honøble Punjab & Haryana High Court relying on the provisions of section 268A(1) of the Act.

2.1 In the present case, the tax effect involved in each of the four appeals filed by the Revenue in the month of February, 2014 is less than the monetary limit of Rs.3 lakhs prescribed by the CBDT vide Instruction dated 09.02.2011 (*supra*) and the same being in contravention of the said instruction issued by the CBDT which have attained a statutory status as a consequence of the insertion of the section 268A in the Income-Tax Act, 1961 as held by the Honøble Punjab & Haryana High Court in the case of Oskar Laboratories Pvt.

Ltd., I hold that the same are not maintainable. All these four appeals filed by the Revenue are accordingly dismissed.

7. In the result, all the appeals filed by the Revenue are dismissed.
Order Pronounced in the Open Court on 15th September, 2015.

Sd/-
(P.M.Jagtap)
ACCOUNTANT MEMBER

Dated: 15/09/2015

Talukdar/Sr.PS

Copy of order forwarded to:

- 1 M/s. Rameswara Niket Services Pvt. Ltd., Sidha Gibson, 1, Gibson Lane, Gr. Fl., Kolkata ó 700 069
- 2 ITO, Ward-12(3), Kolkata- 69.
- 3 The CIT(A),
- 4 CIT,
- 5 D.R.

True Copy,

By order,

Asstt. Registrar, ITAT, Kolkata