

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SMT DIVA SINGH, JUDICIAL MEMBER
AND
SH.O.P.KANT, ACCOUNTANT MEMBER**

**I.T.A .No.-2294 & 2295/Del/2001
(ASSESSMENT YEAR-1987-1988 & 1988-89)**

JCIT, Spl. Range-10, R.No.-211, C.R.Building, New Delhi. (APPELLANT)	vs	M/s Progressive Commercial Enterprises Ltd., C/o-M.L.Puri, & Co, CA No.407, New Delhi House, 47, Barakhamba Road, New Delhi (RESPONDENT)
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Appellant by	Sh.V.R.Sonbhadra, Sr.DR
Respondent by	Sh. Shailesh Gupta, CA

Date of Hearing	20.06.2016
Date of Pronouncement	22.06.2016

ORDER

PER BENCH

Both these appeals have been filed by the Revenue assailing the correctness of the separate orders dated 22.02.2001 of CIT(A)-XXVIII, New Delhi pertaining to 1987-88 and 1988-89 assessment years on the following grounds: –

ITA No.2294/Del/2001

1. *“Based on facts and circumstances of the case, the Ld.CIT(A) has erred in law and on facts in deleting the penalty /s 271(1)(c) of Rs.8,62,623/- by the A.O.*

ITA No.2295/Del/2001

1. *“Based on facts and circumstances of the case, the Ld.CIT(A) has erred in law and on facts in deleting the penalty /s 271(1)(c) of Rs.8,42,838/- by the A.O.”*

2. The Ld.AR inviting attention to the Circular No.21/2015 dated 10th December, 2015 of CBDT submitted that the said Circular is retrospective and thus in terms of para 10 of the same, the departmental appeals deserve to be

dismissed. Considering the Circular and the issue raised, the Ld. Sr. DR fairly conceded that the departmental appeals have been filed wherein the tax effect involved is much less than Rs.10 lakh.

3. We have heard the submissions of the parties on this issue and perused the material on record. We find that the CBDT vide the aforesaid Circular dated 10.12.2015 has revised the monetary limit to Rs.10 lakh for filing the appeal by the department before Income Tax Appellate Tribunal. Para 3 of the aforesaid Circular has been made applicable vide para 10 retrospectively. Considering the settled legal precedent that the Board's instructions or directions issued to the Income Tax Authorities u/s 268A of the Income Tax Act, 1961 are binding on the authorities, we dismiss the departmental appeals considering the material available on record.

4. In the result, the appeals of the Revenue are dismissed.

The order is pronounced in the open court on 22 June, 2016.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER

Amit Kumar

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI