

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

**BEFORE SHRI J.S. REDDY, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.3373/Del./2009
(ASSESSMENT YEAR : 2002-03)**

**ITA No.3377/Del./2009
(ASSESSMENT YEAR : 2006-07)**

ACIT, Central Circle 17,
New Delhi.

vs. Shri Om Parkash Bhatia,
606/607, Katra Ishwar Bhawan
Khari Baoli, Delhi.

(PAN : AADPB7746H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Dr. Rakesh Gupta, Advocate and
Shri Somil Aggarwal, Advocate
REVENUE BY : Mrs. Meenakshi Singh, CIT DR

Date of Hearing : 18.07.2016

Date of Order : 18.07.2016

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The Appellant, Assistant Commissioner of Income-tax, Central Circle 17, New Delhi (hereinafter referred to as 'the revenue') by filing both the aforesaid appeals sought to set aside the impugned orders dated 28.05.2009 & 25.05.2009 passed by the Commissioner of Income-tax (Appeals)-II, New Delhi qua the assessment years 2002-03 & 2006-07 respectively.

2. Perusal of the aforesaid appeals filed by the Revenue apparently show that the same are having low tax effect as per CBDT Circular No.21/2015 dated 10th December, 2015 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.10,00,000/- and this factual position has been fairly conceded by the Ld. D.R. The Ld. A.R. contended that the appeal of the Revenue may be dismissed in the light of CBDT Circular (supra).

3. We have heard parties on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted 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 (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. The contention of Ld. Sr. D.R. that she needs some time to procure the report from the Assessing Officer to work out the tax effect, is not tenable because when apparently, the appeals in question are covered under CBDT Circular No.21/2015 dated 10th December, 2015 (supra), the Revenue cannot import the facts within the knowledge of the Assessing Officer to further prolong the matter. However, in case any fact which is otherwise not on record, warrants the restoration of the present appeals, the revenue is at liberty to approach the Tribunal under relevant provisions of law.

5. In view of the CBDT Circular No.21 dated 10.12.2015 having retrospective effect and what has been discussed above, we are of the considered view that the aforesaid appeals are not maintainable because of low tax effect i.e. less than Rs.10,00,000/- hence, the aforesaid appeals filed by the Revenue are hereby dismissed having been become infructuous.

Order pronounced in open court on this 18th day of July, 2016.

**Sd/-
(J.S. REDDY)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Dated the 18th day of July, 2016/TS

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-II, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.