

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH - 'G', NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No. 5270/Del/2013

AY: 2001-02

ACIT
Central Circle-19,
New Delhi.

vs. SVP Industries Ltd.
Mansoorpur District
Muzaffarnagar
PAN AAEC3837C

(Appellant)

(Respondent)

Appellant by : Shri S.S. Rana, CIT(DR)
Respondent by : Shri Balwant Singh, Advocate

Per ANADEE NATH MISSHRA, Accountant Member

ORDER

This appeal has been filed by Revenue against order dated 24.6.2013 of Ld.

CIT(A) – XXXIII, New Delhi. The grounds of appeal are as under:

- 1. On the facts and in the circumstances of the case, the CIT(A) has erred in holding that various documents/books of account found during search and survey operation at the premises of UPDA and Shri RK. Miglani, Secy. Genl.Of UPDA, do not belong to the members of UPDA.*
- 2. On the facts and in the circumstances of the case, the CIT(A) has erred in ignoring the document which contains three years complete account of illegal payments made by the members of UPDA and which was duly signed by core committee members/representatives of members including R.K.Miglani" confirming the veracity and authenticity of these payments which document was duly discussed in assessment order and copy attached to form part of the assessment order.*
- 3. On the facts and in the circumstances of the case, the CIT(A) has erred in not appreciating the fact that the document which contained three years account of payments and was signed by*

core committee members /representatives of members including RK. Miglani, also belonged to all the members of UPDA.

4. *On the facts and in the circumstances of the case, the CIT(A) has erred in ignoring the document which was found at the premises of Saraya industries Ltd. during survey operation and amounts paid to them to UPDA as recorded in the said document failed with the amounts found written in the seized documents which was duly discussed in assessment order and copy attached to form part of the assessment order.*
5. *On the facts and in the circumstances of the case, the CIT(A) has erred in misconstruing the meaning of the words" belong and for "belonging to" as provided in the Indian Evidence Act.*
6. *On the facts and in the circumstances of the case, the CIT(A) has erred in not considering vital evidences viz. primary, secondary and circumstantial as discussed in the assessment order and available with the Department including faxes and, therefore, has not denied natural justice in this case.*
7. *On the facts and in the circumstances of the case, the CIT(A) has erred in not taking cognizance of the amounts of Rs. 30.02 crore and Rs. 8.90 crore which figured in the said seized documents in the names of Radico Khaitan Ltd. and Balrampur Chini Mills Ltd. and these parties surrendered these amounts and paid tax to the exchequer.*
8. *The order of the CIT(A) is erroneous and is not tenable on facts and in law*
9. *The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal."*

2. When the appeal came up for hearing, the Ld. Authorised Representative of the respondent assessee contended at the outset that tax effect in this appeal was below Rs. 10 lakhs. He also drew our attention to CBDT Instruction No. 21/2015 dated 10th December, 2015 in which Revenue has been directed not to file any appeal in Income Tax Appellate Tribunal if tax effect is less than Rs. 10,00,000/-. The Ld. Authorised Representative contended that the appeal of the Revenue may be dismissed in the light of CBDT Circular (supra). The CIT (DR) appearing for Revenue agreed that the tax effect in this appeal filed by revenue is less than Rs. 10 lakhs. He also agreed that

aforesaid instruction of CBDT dated 10.12.2015 was applicable in this appeal; and agreed that the appeal has become infructuous in view of this CBDT instruction.

3. We have heard both sides and we have also perused the materials on record. From the above, we find that the tax effect in Revenue's Appeal is less than Rs.10,00,000/- . Therefore, this appeal is covered by Instruction No. 21/2015 dated 10th December, 2015 of CBDT, issued vide F.No. 279/Misc. 142/2007-ITJ (Pt.) . For the sake of convenience, the relevant portion of the aforesaid CBDT Circular is 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:

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

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.

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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. We are of the view that the aforesaid CBDT Instruction No. 21/2015 dated 10th December, 2015 is applicable for the pending appeals filed by Revenue, as well as for the appeals to be filed by Revenue henceforth. In view of the aforesaid Instruction, therefore, Revenue should have withdrawn / not pressed the present Appeal, since the tax effect in the instant appeal is less than the prescribed limit of Rs. 10,00,000/- , specified in the aforesaid CBDT Instruction No. 21/2015 dated 10th December, 2015.

5. In view of the foregoing, we conclude that the appeal is inconsistent with the aforesaid CBDT Instruction No. 21/2015 dated 10th December, 2015; and hold that the appeal is, therefore, not maintainable. Accordingly, we dismiss the appeal *in limine*, appeal being not maintainable; without going into the merits. In the result, this appeal, filed by Revenue; stands dismissed. Before parting, we wish to clarify that Revenue will be free to move ITAT as per law for recall of this order if it is found that aforesaid CBDT instruction is not applicable ; and if ITAT is satisfied then this order may be recalled for hearing and decision on merits. This decision was pronounced orally in the open court immediately after conclusion of hearing. This written order is now pronounced in open court on 27.4.2017.

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER

sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 27.4.2017

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Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR