

IN THE INCOME TAX APPELATE TRIBUNAL
DELHI BENCH "SMC-3": NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 3684/Del/2014

A.Y. : 2007-08

DEPUTY COMMISSIONER OF INCOME TAX vs. SH. DWARKA PRASAD AGGARWAL
CENTRAL CIRCLE-10, 34, SHANTI VIHAR,
ROOM NO. 362, ARA CENTRE, DELHI
E-2, JHANDEWALAN EXTN., (PAN: AAJPA8859J)
NEW DELHI

(Appellant)

(Respondent)

Department by : Sh. KK Jaiswal, Sr. DR
Assessee by : Sh. Saurabh Goyal, CA

Date of Hearing : 13-06-2016

Date of Order : 13-06-2016

ORDER

PER H.S. SIDHU, JM

This appeal by the Department is directed against the Order dated 18.3.2014 of Ld. CIT(A)-XXXII, New Delhi pertaining to assessment year 2007-08 on the following grounds:-

- "1. That the CIT(A) erred in law and on facts of the case in deleting the addition of Rs. 19,03,491/- made by AO on account of deemed dividend u/s. 2(22)(e) of the I.T. Act, 1961.
2. That the CIT(A) erred in not invoking the provisions of Section 250(4) of the Income Tax which empowers Ld. CIT(A) to conduct further enquiry on the issues involved in this case.

3. That the CIT(A) erred in law and facts of the case in deleting the addition of Rs. 2,30,816/- made by AO on account of disallowance of interest and depreciation.
- 4(a) The order of the CIT(A) is erroneous and not tenable in law and on facts.
- (b) 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. From the above, I find 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.”

3. 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.

4. Keeping in view the CBDT Instruction No. 21/2015 dated 10th December, 2015, I am of the view that the Revenue should have withdrawn/ not pressed the instant appeal before the Tribunal. I am 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.

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

Order pronounced in the Open Court on 13/06/2016.

**SD/-
[H.S. SIDHU]
JUDICIAL MEMBER**

Date: 13/6/2016

SRBhatnagar
Copy forwarded to: -

1. Appellant 2. Respondent 3. CIT 4. CIT (A) 5. DR, ITAT
TRUE COPY By Order,

Assistant Registrar, ITAT, Delhi Benches

