

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**  
[Before Shri P. M. Jagtap, AM & Shri A. T. Varkey, JM]

**I.T.A. No. 654/Kol/2014**  
**Assessment Year: 2008-09**

Assistant Commissioner of Income-tax, Circle-33, Kolkata	Vs.	Ashok Chaudhary, (PAN:ACRPC5234B).
Appellant		Respondent

Date of Hearing	18.05.2017
Date of Pronouncement	18.05.2017
For the Appellant	Shri Sallong Yaden, Addl. CIT
For the Respondent	Shri Shital Khemka, AR

**ORDER**

**Per Shri A.T.Varkey, JM**

This is an appeal filed by the revenue against the order of Ld. CIT(A)-X1X, Kolkata dated 07.01.2014 for AY 2008-09.

2. At the outset, we find that the appeal of the revenue falls in the ken of the CBDT Circular no. 21/2015 dated 10.12.2015, wherein the CBDT has directed the department to withdraw/not press the appeal if the tax effect is less than Rs. 10 lacs before the ITAT. On perusal of the Circular No. 21 / 2015 dated 10.12.2015 and the materials available on record, Ld. DR could not point out whether this case falls under any of the exception as provided in the circular despite specific opportunity was given, does not fall under any of the exceptions contemplated in the said Circular, as this is covered. We also find that the Circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals also. We find that the Circular is binding on the tax authorities. This position has been confirmed by the *Hon'ble Apex Court in the case of Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)*. Hence, we hold that the appeal of the revenue deserves to be dismissed in

terms of low tax effect vide Circular No.21 / 2015 dated 10.12.2015. Accordingly, this being a low tax effect case, we dismiss this appeal of revenue in limine, as unadmitted, without going into the merits of the case. In case the revenue later finds that the tax effect is more than Rs. 10 lakhs then it is at liberty to move appropriate application to recall this order. With this Caveat, we are inclined to dismiss this appeal on the ground that it is below the tax effect of less than Rs.10 lakh.

3. In the result, appeal of the revenue is dismissed.

Order is pronounced in the open court.

Sd/-  
(P. M. Jagtap)  
Accountant Member

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated : 18th May, 2017

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – ACIT, Circle-33, Kolkata.
- 2 Respondent – Shri Ashok Chaudhary, Habra, Barasat, 24 Pgs (North), West Bengal
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.