

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SRI AMIT SHUKLA, JUDICIAL MEMBER
AND SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No. 262/Del/2013

AY: 2008-09

ADIT, International Taxation vs. Sh. Dhruv Choudhary
Circle 1(1) 45-46, Sunder Nagar
New Delhi New Delhi

(Appellant)

PAN: AADPC 4041 Q

(Respondent)

Appellant by : Sh. Anil Kumar Sharma, Sr.D.R
Respondent by : Sh. Tarun Singh, Adv.

ORDER

PER AMIT SHUKLA, JUDICIAL MEMBER

The aforesaid appeal has been filed by the Revenue against the impugned order dt. 19.11.2012 passed by the Ld.CIT(A)-29, New Delhi, for the quantum of assessment passed u/s 143(3) of the Income Tax Act, 1961 (the Act) for the Assessment Year (A.Y.) 2008-09.

2. The Revenue has taken the following grounds of appeal.

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding that the assessee was 'non-resident' whereas the correct status of the assessee was that of a 'resident',

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding that if the assessee case was covered by exception provided under explanation(b) to. Section 6(1) of the IT Act whereas the same was not applicable in facts of the case.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law in observing that the AO would lose jurisdiction by virtue of status

being determined in the assessment proceedings whereas the matter of status can be determined in assessment proceedings and does not effect assumption of jurisdiction on the basis of status returned by the assessee.

4. On the facts and in the circumstance of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 1631195/- made by the Assessing Officer.

5. The appellant craves to add, amend, modify, or alter any grounds of appeal at the time or before the hearing of the appeal.”

3. At the outset it was noticed that the tax effect on the disputed issue of Rs.16,31,195/- is much less than the prescribed monetary limit of filing of appeal before the Tribunal, which is Rs.10 lakhs. Both the parties agreed that the tax effect on the disputed addition is less than Rs.10 lakhs.

4. After considering the aforesaid fact and the CBDT Circular No.21/2015 dated 10th December,2015, F.No. 279/Misc./142/2007-ITJ(Pt.) read with S.268 A of the Income Tax Act 1961, whereby the monetary limit of filing of appeal has been raised to Rs.10,00,000/- and has been made applicable for all the pending appeals, we are of the opinion that this appeal by the Revenue is dismissed as non-maintainable.

5. In the result the appeal by the Revenue is dismissed in limine.
Order pronounced in the Open Court on 27th February, 2017.

Sd/-

(O.P. KANT)
ACCOUNTANT MEMBER

Sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: the 27th February, 2017

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Copy forwarded to: -

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

- TRUE COPY -

By Order,

ASSISTANT REGISTRAR