

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 5755/Del/2015
Assessment Year: 2010-11**

DCIT, CIRCLE 17(1)
New Delhi
Room No. 308, CR Building,
IP Estate, New Delhi

(APPELLANT)

vs. M/s Motherson Advanced Tooling
Solutions Ltd.,
2nd floor, F-7, Block-B-1, Mohan
Cooperative Industrial Estate,
Mathura Road, New Delhi
(PAN: AAFCM4421P)
(RESPONDENT)

Appellant by : Sh. S.K. Jain, Sr. DR
Respondent by : None

**Date of Hearing : 08-2-2016
Date of Order : 08-2-2016**

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 17.7.2015 of Ld. CIT(A)-6, Delhi pertaining to assessment year 2010-11 on the following grounds:-

“1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the addition made by the AO by making a disallowance on account of warranty expenses amounting to Rs. 22,75,000/- without bringing on records the fact that the provision was determined on scientific basis?

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the addition made by the AO on account of warranty expenses by ignoring the fact that the provision and actual amount spent for AYs 2010-11, 2011-12 and 2012-13 are not in commensuration with each other as the provision is on higher side than the actual amount spent on this count?

3. That the order of the Ld. CIT(A) is erroneous and is not tenable on facts and in law.

4. That the appellant craves leave to add, alter, amend or forego any ground(s) of appeal either before or at the time of hearing of the appeal.”

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor its authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal *ex parte* qua assessee, after hearing the Ld. DR and perusing the records.

3. We find that Revenue in the Grounds of Appeal before the Tribunal has challenged the deletion of addition of Rs. 22,75,000/- vide ground no. 1, as aforesaid.

4. From the above, we 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.”

5. 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.

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

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

Order pronounced in the Open Court on 08/2/2016.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

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

Dated: 08/2/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR