

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A1" NEW DELHI
BEFORE SHRI S.V. MEHROTRA : ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE : JUDICIAL MEMBER

DCIT Circle 2,
Gurgaon

ITA no. 4031 /Del/2015
Asstt. Yr: 2010-11
Vs. M/s Higrow Industries,
237, IMT Manesar, sectgor-7,
Gurgaon
PAN: AADFH 2095 R

(Appellant)

(Respondent)

Department by : Shri Ravi Jain CIT(DR)
Assessee by : None

Date of hearing : 28/12/2015.
Date of order : 29/12/2015.

ORDER

PER S.V. MEHROTRA, A.M:

This is revenue's appeal against the order dated 30.4.2015, passed by the Id. CIT(A)-1, Gurgaon, relating to A.Y. 2010-11.

2. This appeal has been fixed for hearing in view of recent CBDT Instruction No. 21/2015 dated 10.12.2015, revising the monetary limit of Rs.10.00 lacs for not filing the appeal by Revenue before the Tribunal in terms of section 268A(1) of the Income-tax Act.

3. The CBDT in its recent Circular No. 21/2015 dated 10.12.2015 has provided that no departmental appeal shall be filed before the ITAT wherein the tax effect involved is less than Rs.10 lakhs. Further, in para 10 of the

Circular, it is provided that this instruction would apply retrospectively and the pending appeals below the specified tax limit of Rs.10 lakh may be withdrawn/not pressed.

4. Learned CIT-DR, Shri Ravi Jain, who appeared at the time of hearing before us stated that he needs some time to call for the report from the Assessing Officer as well as instructions from Administrative CIT for withdrawing the appeal, because the appeal was filed with the approval of Administrative CIT. Learned CIT(DR) further pointed out that in paragraph 7 of the said Circular, it has been clarified by the CBDT that withdrawal of the appeal by the Revenue on account of low tax effect should not be considered as a precedent in the subsequent years of the acceptance of issues involved in this appeal and, therefore, if in the subsequent year similar issue arises before the ITAT where the appeal is above the tax limit, as prescribed in this Circular, the same should be decided on merits.

5. After considering the submissions of learned DR, the facts of the case and the Circular of the CBDT, we are of the opinion that there is no necessity for adjourning the appeal and calling the report from the Assessing Officer because, apparently, the tax effect involved in the present appeal of the Revenue is below 10 lakhs. However, we may clarify that if on receipt of this order, the Assessing Officer finds that the tax effect is above Rs.10 lacs or in any other manner, the circular is not applicable in view of exceptions culled out in the circular, he will be at liberty to file miscellaneous application for recalling of this order which the Tribunal will consider in accordance with law. We also agree with the contention of the learned CIT(DR) that this order would not be considered as an acceptance by the Revenue on the issue involved in this appeal and will not be an estoppel for the Revenue to take up the issue involved in this appeal before the ITAT on merits if the tax effect in those years is more than 10 lakhs.

6. In view of above, keeping in view the above Circular and the provisions of section 268A of the Income-tax Act, 1961 and without going into merits

of the cases, we dismiss the instant appeal filed by the Revenue as tax effect in this appeal is less than Rs.10.00 lacs.

Order pronouncement in open court on 29/12/2015.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 29/12/2015.

MP

Copy of order to:

1. Assessee
2. AO
3. CIT
4. CIT(A)
5. DR, ITAT, New Delhi.

Sd/-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER