

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

**Before Sh. N. K. Saini, AM And Ms. Suchitra Kamble, JM**

**ITA No. 3354/Del/2013 : Asstt. Year : 2005-06**

DCIT Central Circle-13, Room No. 332 ARA Centre, Jhandewalan Extn. New Delhi	Vs	Raj Kumar Kedia 59/17, Bahubali Apartment New Rohtak Road New Delhi AAOPK7634A
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

**ITA No. 3098Del/2013 : Asstt. Year : 2005-06**

Raj Kumar Kedia 59/17, Bahubali Apartment New Rohtak Road New Delhi AAOPK7634A	Vs	ACIT Central Circle-13 ARA Centre, Jhandewalan Extension New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

**Assessee by : Sh. Saurabh Goel, CA**

**Revenue by : Sh. Balwan Chauhan, CIT (DR)**

<b>Date of Hearing : 17.02.2016</b>	<b>Date of Pronouncement :17 .02.2016</b>
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**ORDER**

**Per N. K. Saini, AM:**

These cross appeals filed by the Department and Cross Objection by the assessee are directed against the order dated 14/03/2013 of Ld. CIT(A)-I, New Delhi.

1. During the course of hearing, the Learned counsel for the assessee at the very outset stated that the tax effect in this appeal is less than Rs.10,00,000/-, therefore, the department ought not to have filed this appeal in view of the circular issued by the CBDT and the provisions contained in Section 268A of the Income Tax Act, 1961 (hereinafter to be referred as the Act).

2. On the other hand, the Id. D.R., although supported the order of the Assessing Officer, but could not controvert this fact that tax effect in this appeal is less than Rs.10,00,000/-.

3. After considering the submissions of both the parties and the material available on record, it is noticed that Section 268A has been inserted by the Finance Act, 2008 with retrospective effect from 01/04/99. The said section 268 of the Act provides that the Board may issue instruction or directions to the other income-tax authorities fixing monetary limits for not filing the appeals before the Appellate Tribunal or the Courts, said instructions/directions are binding on the income tax authorities.

4. It is noticed that the CBDT has issued Circular No.21 of 2015 dated 10.12.2015, vide which it has revised the monetary limit to Rs.10,00,000/- for not filing the appeal before the Tribunal. The relevant portion of the said circular reads as under:

“ .....

.....

3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

<b>S. No</b>	<b>Appeals in Income-tax matter</b>	<b>Monetary Limit (in Rs)</b>
1	<i>Before Appellate Tribunal</i>	10,00,000/-
2	<i>Before High Court</i>	20,00,000/-
3	<i>Before Supreme Court</i>	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.*

.....

.....

9. *The monetary limits specified in para 3 above shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules. Further, filing of appeal in cases of Income Tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A of the IT Act, 1961, shall not be governed by the limits specified in para 3 above and decision to file appeal in such cases may be taken on merits of a particular 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. From Clause 10 of the above said circular it is clear that these instructions are applicable to the pending appeals also

and as per clause 3, there is clear cut instruction to the department to withdraw or not to press the appeals filed before the ITAT wherein tax effect is less than Rs.10,00,000/-. These instructions are operative retrospectively to the pending appeals.

6. Keeping in view the CBDT Circular No.21 of 2015 dated 10.12.2015 and also the provisions of Section 268A of Income Tax Act, 1961, we are of the view that the Revenue should not have filed the instant appeal before the Tribunal.

7. In the assessee's appeal following grounds have been raised:-

1. "On the facts and circumstances of the case and in law, the additions /disallowances made by the Assessing Officer are beyond the scope/jurisdiction of provisions of Section 153A and the Ld. CIT(A) erred in not holding so. On the facts and circumstances of the case and in law, the Ld. CIT(A) should have held that the additions made by the Assessing Officer of Rs.29,47,500/- on account of alleged unexplained credits received and Rs.45,889/- on account of disallowance u/s 14A are beyond the scope/jurisdiction of provisions of Section 153A.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) should have held that even otherwise on merits the addition of Rs.29,47,500/- made by the Assessing Officer on account of alleged unexplained credits received is not sustainable.
3. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs.45,889/- made by the Assessing Officer on account of disallowance u/s 14A.

8. During the course of hearing the Ld. Counsel for the assessee at the very outset stated that he has the instruction not to press Ground No. 1 & 2 of this appeal and Ground No. 3 was not pressed by considering the smallness of the amounts. The Ld. Counsel for the assessee gave in writing as under:-

Ground No. 1 & 2 not pressed.

Ground No. 3 For smallness of amount, not pressed.

Sd/-

(Saurabh Goel)

9. In view of the above, the appeal of the assessee is dismissed as not pressed.

10. In the result, appeal of the Department as well as of the assessee are dismissed.

(Order Pronounced in the Court on 17/02/2016)

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Dated: 17/02/2016**

\*R. Naheed\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(N. K. SAINI)**  
**ACCOUNTANT MEMBER**

**ASSISTANT REGISTRAR**

		Date	<u>Initial</u>	
1.	Draft dictated on	17.02.2016		PS
2.	Draft placed before author	17.02.2016		PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS	18.02.2016		PS/PS
6.	Kept for pronouncement on			PS
7.	File sent to the Bench Clerk	18.02.2016		PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			