

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D" NEW DELHI
BEFORE SHRI S.V. MEHROTRA : ACCOUNTANT MEMBER
AND
SHRI C.M. GARG: JUDICIAL MEMBER

ITA no. 6517/Del/2013

Asstt. Yr: 2007-08

Income-tax Officer,
Ward-24(1), New Delhi.

Vs. South Asia Human Right
Documentation Center,
B-6/6, Safdarjung Enclave,
New Delhi.

PAN: AABFS 5712 J

(Appellant)

(Respondent)

Appellant by : Shri K.K. Jaiswal Sr. DR
Assessee by : None

Date of hearing : 29/01/2016.

Date of order : 03/02/2016.

ORDER

PER S.V. MEHROTRA, A.M:

This is revenue's appeal against the order dated 22.10.2013, passed by the ld. CIT(A)-ix, New Delhi, relating to A.Y. 2007-08.

2. None put in appearance on behalf of the assessee at the hearing. We proceed to dispose of the revenue's appeal, ex parte, qua the assessee and in that process we have heard ld. DR and perused the entire material available on record.

3. Admittedly, the tax effect in the present appeal is less than Rs. 10 lakhs. The recent CBDT Circular No. 21/2015 dated 10.12.2015 stipulates that no departmental appeal, involving tax effect below Rs.10 lakhs, shall be filed before the ITAT. Para 10 of the Circular specifies that such instruction

would apply retrospectively and the pending appeals below the specified tax limit of Rs.10 lakh may be withdrawn/not pressed.

4. Ld. DR could not controvert the aforementioned factual position. He, however, referring to clarification given in paragraph 7 of the Circular, submitted 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. Since the tax effect involved in the present departmental appeal is below 10 lakhs, therefore, in view of recent CBDT Circular No. 21/2015 dated 10.12.2015, this appeal is not maintainable in terms of section 268A(1) of the Income-tax Act. However, we may clarify that if on receipt of this order, the Assessing Officer finds that the tax effect involved 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 take such steps, as deem fit, to recall the order. We also agree with the contention of the learned 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. Keeping in view the aforementioned CBDT Circular and the provisions of section 268A of the Income-tax Act, 1961, 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.

7. In the result, revenue's appeal stands dismissed.

Order pronouncement in open court on 03/02/2016.

Sd/-
(C.M. GARG)
JUDICIAL MEMBER
Dated: 03/02/2016.

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

MP

Copy of order to:

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