

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No. 524/Del/2014
Assessment Year: 2008-09**

DCIT, CIRCLE-7(1)
New Delhi

vs. M/s Samson Laboratories Pvt. Ltd.
Khasra No. 894, Shiva Mandir Line,
Alipur, Delhi – 110 036

(APPELLANT)

**(PAN: AAACS14171Q)
(RESPONDENT)**

Appellant by : Smt. Shaveta Nakra Dutta, Sr. DR
Respondent by : None

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 26.11.2013 of Ld. CIT(A)-X, New Delhi pertaining to assessment year 2008-09 on the following grounds:-

- “1. On the facts and the in the circumstances of the case the ld. CIT(A) has erred in law and on facts of the case in deleting the penalty of Rs. 8,21,310/- imposed by the AO u/s. 271(1)(c) of the I.T. Act, 1961.*
- 2. The appellant craves to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this 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 penalty of Rs. 8,21,310/- 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 02/02/2017.

Sd/-

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 02/02/2017

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR