

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

**BEFORE SMT DIVA SINGH, JUDICIAL MEMBER
AND
SH.O.P.KANT, ACCOUNTANT MEMBER**

**I.T.A .No.-5851/Del/2013
(ASSESSMENT YEAR-2010-11)**

DCIT, Central Circle-03, Room No.- 355, 3 rd Floor, Jhandewalan, Extension, New Delhi. (APPELLANT)	vs	Raju Investment P.Ltd., WZ-183, Gali No.4, Lajwanti Garden, Delhi-110046. PAN-AAACR7499H (RESPONDENT)
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Appellant by	Sh.V.P.Mishra, Sr.DR
Respondent by	Sh. Suresh kr.Gupta, CA

Date of Hearing	09.06.2016
Date of Pronouncement	27.06.2016

ORDER

PER DIVA SINGH, JM

The present appeal has been filed by the Revenue assailing the correctness of the order dated 27.08.2013 of CIT(A)-1, New Delhi pertaining to 2010-11 assessment year on the following grounds: –

1. *“The Commissioner of Income tax (Appeal) erred in law and on facts by accepting additional evidence in contravention of Rule 46A.*
2. *The Commissioner of Income tax (Appeal) erred in law and on facts in deleting the addition of Rs.31,50,000/- u/s 68 of the Act w.r.t. procurement of accommodation entries through share application money from non-descript companies.*
3. *The Commissioner of Income Tax(Appeal) erred in law and on facts in deleting an addition of Rs.15,750/- made by the AO w.r.t. commission paid @5% for procurement of accommodation entries through share application money from non-descript companies.”*

2. Mr. Suresh Kumar Gupta, CA appearing on behalf of the assessee submitted that the appeal of the Revenue has been filed contrary to the latest Circular No.21/2015 dated 10th December, 2015 of CBDT wherein the monetary limit of Rs. 10 Lacs has been fixed by the CBDT for filing the departmental appeal

before the ITAT. Inviting attention to the departmental grounds raised it was submitted that after considering the surcharge and cess etc. even then the tax effect involved is Rs.9,78,217/- calculation sheet in support of the said claim was placed before the Bench. Time was given to the Ld.Sr.DR to go through the same and the appeal was passed over. In the second round, the Ld. Sr. DR agreed that the tax effect involved is less than Rs.10 Lacs and the departmental appeal may be dismissed as not pressed. The calculation provided not disputed by the Ld.Sr.DR is reproduced hereunder:-

<i>Amount calculated in appeal of Department</i>	<u>Rs.31,65,750/-</u>
<i>Tax due @ 30%</i>	<u>Rs. 9,49,725/-</u>
<i>Surcharge @ 2% ED. Cess</i>	<u>Rs. 18,995/-</u>
	<u>Rs. 9,68,720/-</u>
<i>SE Cess @ 1%</i>	<u>Rs. 9,497/-</u>
	<u>Rs. 9,78,217/-</u>

3. We have heard the submissions of the parties on this issue and perused the material on record. We find that the CBDT vide the aforesaid Circular dated 10.12.2015 has revised the monetary limit to Rs.10 Lacs for filing the appeal by the department before Income Tax Appellate Tribunal. Para 3 of the aforesaid Circular has been made applicable vide para 10 retrospectively. Considering the settled legal precedent that the Board's instructions or directions issued to the Income Tax Authorities u/s 268A of the Income Tax Act, 1961 are binding on the authorities, we dismiss the departmental appeal considering the material available on record.

4. In the result, the appeal of the Revenue is dismissed.

The order is pronounced in the open court on 27th June, 2016.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER

Amit Kumar

Copy forwarded to:

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

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI