

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI ANADI N. MISHRA, ACCOUNTANT MEMBER**

**ITA No. 2596/Del/2014
AY: 2004-05**

DCIT vs. M/s Mahagun Technologies Pvt. Ltd.
CENTRAL CIRCLE-03, 66, Vivek Vihar, Delhi-95
NEW DELHI (PAN: AACCB3143L)
(Appellant) (Respondent)

Appellant by : Ms. Deepika Mittal, CIT(DR)

Respondent by : None

PER H.S. SIDHU, JM

ORDER

This appeal by the Department is directed against the Order dated 17.2.2014 of Ld. CIT(A), New Delhi pertaining to assessment year 2004-05 on the following grounds:-

"1. That the CIT(A) has erred in law and on facts of the case in treating the addition made to be beyond the scope of section 153A of the I.T. Act.

2. That the CIT(A) erred in law and on facts of the case in holding that the original assessment cannot be disturbed as there was no incriminating material found during search.

3. That the CIT(A) erred in law and on facts of the case deleting the addition of Rs. 19,31,000/- made by AO on

account of unexplained investment in share application money u/s. 68 of the I.T. Act, 1961.

4.(a) The order of the CIT(A) is erroneous and not tenable in law and on facts.

(b) The appellant craves leaves to add, alter or amend any / all of the grounds of appeal or during the course of hearing of the 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 his 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 *exparte qua* assessee, after hearing the Ld. DR and perusing the records.

3. We have heard the Ld. DR and perused the material on record. 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."

4. 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.

5. 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.

6. In the result, Appeal filed by the Revenue Stands dismissed.

Order pronounced in the Open Court on 27/7/2016.

Sd/-

**(ANADI N. MISHRA)
ACCOUNTANT MEMBER**

Sd/-

**(H.S. SIDHU)
JUDICIAL MEMBER**

Dated: 27/7/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR