

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 231/Del/2015
Assessment Year: 2008-09**

DCIT, CIRCLE-11(2),
NEW DELHI

(APPELLANT)

VS. M/S HINDUSTAN FERTILIZER
CORPORATION LTD.,
PDIL BHAWAN,
A-14, SECTOR-1, NOIDA
(PAN:AAACH0907N)
(RESPONDENT)

Department by : Sh. Sh. Arun Kumar Yadav, Sr. DR
Assessee by : Sh. Naveen Sethia, Partner

ORDER

PER H.S. SIDHU, JM

The Department has filed this Appeal which is emanate from the Order dated 20.10.2016 of Ld. CIT(A)-XV, New Delhi pertaining to assessment year 2008-09. The grounds raised in the revenue's appeal reads as under:-

- i) *Whether on facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the penalty of Rs. 8,78,302/- imposed u/s. 271(1)(c) ignoring the fact that ITAT has confirmed 4/5th of disallowance on account of VSS expenditure by holding provision of section 35DDA in the assessee own case.*
- ii) *The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of the hearing.*

3. During the hearing, A.R. of the assessee has stated that the tax effect in this case is below the prescribed limit, hence, he requested that the appeal of the Revenue may be dismissed.

4. On the contrary, Ld. DR relied upon the order of the AO.

5. We have heard both the parties and perused the records. After perusing the records, we find that tax effect in the Revenue's appeal is below the limit of Rs. 10 lacs, as fixed by the CBDT and, 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:

<i>S No</i>	<i>Appeals in Income-tax matters</i>	<i>Monetary Limit (in Rs)</i>
<i>1</i>	<i>Before Appellate Tribunal</i>	<i>10,00,000/-</i>
<i>2</i>	<i>Before High Court</i>	<i>20,00,000/-</i>
<i>3</i>	<i>Before Supreme Court</i>	<i>25,00,000/-</i>

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.”

6. 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.

7. 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.

8. In the result, the Revenue's Appeal stands dismissed.

Order pronounced in the Open Court on 04/10/2017.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 04/10/2017

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR