

आयकर अपीलीय अधीकरण, न्यायपीठ – “B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
 (समक्ष)Before श्री ए. टी. वर्की, न्यायीक सदस्य एवं/and श्री एम. बालगनेश, लेखा सदस्य)
 [Before Shri A. T. Varkey, JM & Shri M. Balaganesh, AM]

I.T.A. No. 1379/Kol/2015
Assessment Year: 2009-10

Deputy Commissioner of Income-tax, Circle-11(1), Kolkata.	Vs.	M/s. Deepak Spinner Ltd. (PAN: AABCD0387R)
Appellant		Respondent

Date of Hearing	27.09.2017
Date of Pronouncement	04.10.2017
For the Appellant	Shri David Z. Chowngthu, Addl. CIT, DR
For the Respondent	Shri Sujoy Sen, Advocate

ORDER

Per Shri A.T.Varkey, JM

This is an appeal filed by the revenue against the order of Ld. CIT(A)-4, Kolkata dated 18.08.2015 for AY 2009-10.

2. At the outset, Ld. Counsel for the assessee submitted that the tax effect involved in this appeal of revenue is less than Rs. Ten lakhs. Hence, departmental appeal should not be allowed to be proceeded with. We find that the appeal of the revenue falls in the ken of the CBDT Circular no. 21/2015 dated 10.12.2015, wherein the CBDT has directed the department to withdraw/not press the appeal if the tax effect is less than Rs. 10 lacs before the ITAT. On perusal of the Circular No. 21 / 2015 dated 10.12.2015 and the materials available on record, we find that the revenue's case does not fall under any of the exception clause as provided in the circular, as this is covered. We also find that the Circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals also. We find that the Circular is binding on the tax authorities. This position has been confirmed by the *Hon'ble Apex Court in the case of Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)*. Hence, we hold that the appeal of the

revenue deserves to be dismissed in terms of low tax effect vide Circular No.21 / 2015 dated 10.12.2015. Accordingly, this being a low tax effect case, we dismiss this appeal of revenue in limine, as unadmitted, without going into the merits of the case. In case the revenue later finds that the tax effect is more than Rs. 10 lakhs then it is at liberty to move appropriate application to recall this order. With this Caveat, we are inclined to dismiss this appeal of the revenue on the ground that it is below the tax effect of less than Rs.10 lakh.

3. In the result, appeal of revenue is dismissed.

Order is pronounced in the open court on 04.10.2017.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Aby. T. Varkey)
Judicial Member

Dated : 4th October, 2017

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – DCIT, Circle-11(1), Kolkata
2. Respondent – M/s. Deepak Spinner Ltd., 16, Hare Street, Kolkata-700 001.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Sr. Pvt. Secretary