

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

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

**ITA No. 3668/Del/2010
Assessment Year: 2005-06**

ACIT (OSD),
RANGE-1,
ANNEXE BUILDING,
13-A, SUBHASH ROAD,
DEHRADUN

VS. M/S KOTDWAR STEELS LTD.
BLOCK-E, INDUSTRIAL AREA,
JASHODHARPUR, KOTDWAR
UTTARAKHAND
(PAN: AABCK5842N)

(Appellant)

(Respondent)

Appellant by : Sh. Shravan Gotru, Sr. DR
Respondent by : Sh. Sanjay Malik, CA

ORDER

PER H.S. SIDHU, J.M.

This appeal filed by the Department is directed against the Order dated 08.4.2010 of Ld. CIT(A)-I, Dehradun pertaining to assessment year 2005-06.

2. The grounds raised in this appeal read as under:-

1. The Ld. CIT(A) has erred in not considering the manufacturing results declared by the similar units wherein under same circumstances yield was much higher than that adopted by the AO.
2. The Ld. CIT(A) has erred in law and on facts by deleting addition of Rs. 39,07,536/- on account of unexplained expenditure u/s. 69 of the I.T. Act.
3. The order of the Ld. CIT(A) be set aside and that of the AO be restored.

3. We have heard both the parties and perused the material on record. At the threshold, Ld. AR of the assessee filed a Tax Effect Calculation and stated that tax effect in this case is Rs. 6,54,469/- which is below the prescribed

limit. We find considerable cogency in the submissions of the Ld. AR of the assessee and observe that the tax effect in the Revenue 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.

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

Order pronounced in the Open Court on 01/09/2017.

Sd/-

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

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

Dated: 01/09/2017

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR