

**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. 3156/Del/2010  
Assessment Year: 1997-98**

Assistant Commissioner of Income Tax vs. Sh. Ishtiaq Ahmad,  
Central Circle-6, Room No. 334, 1, Kapoorthala Complex,  
ARA Centre, Jhandewalan Extn., Aliganj, Lucknow  
New Delhi (PAN:ACPPA7639A)  
**(APPELLANT) (RESPONDENT)**

**AND  
CROSS OBJECTION NO. 248/Del/2010  
(IN ITA No. 3156/Del/2010)  
Assessment Year: 1997-98**

Sh. Ishtiaq Ahmad, vs. ACIT, CC-6,  
1, Kapoorthala Complex, ARA Centre,  
Aliganj, Lucknow Jhandewalan Extn.,  
New Delhi  
**(APPELLANT) (RESPONDENT)**

Department by : Sh. Arun Kumar Yadav, Sr. DR.  
Assessee by : Sh. J.J. Mehrotra, CA

**ORDER**

**PER H.S. SIDHU, JM**

The Department has filed this Appeal and Assessee has filed the Cross Objection which emanate from the Order of the Ld. CIT(A-I), New Delhi pertaining to assessment year 1997-98. Since the grounds are similar, hence, the Appeal & Cross Objection were heard together and are being disposed of by this common order for the sake of convenience.

2. The grounds raised in the Revenue's Appeal read as under:-

On the facts and in the circumstances of the case the Ld. CIT(A) has erred in :-

- i) The order of the Ld. CIT(A) is not correct in law and facts.
- ii) Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in directing the AO to allow the claim of the assessee to the extent of Rs. 26,68,440/- and modify the assessment accordingly.
- iii) The appellant craves leave to add, alter or amend any / all of the grounds of appeal before or during the course of the hearing of the appeal.

3. The grounds raised in the Assessee's Cross Objection read as under:-

- i) That on the facts and circumstances of the case as well as in law the Ld. CIT(A) is fully justified in directing the AO to allow the claim of the respondent to the extent of Rs. 26,68,440/- made in the revised computation filed during the course of the assessment proceedings.
- ii) That the respondent craves leave to add, alter, amend or withdraw any or all the grounds of cross objections on or before the date of hearing.

4. At the time of hearing, Ld. Counsel of the assessee has stated that the tax effect in the Revenue's Appeal is less than the prescribed limit of Rs. 10 lacs as fixed by the CBDT. Therefore, he requested that the Appeal of the Revenue may be dismissed on this account.

5. On the other hand, Ld. DR did not controvert the contention raised by the Ld. Counsel of the assessee, but he relied upon the order of the AO.

6. We have heard both the parties and perused the records. We find considerable cogency in the contention of the Ld. Counsel of the assessee that the 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 10<sup>th</sup> 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.”*

7. 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 Appeals are less than the amount of Rs. 10 lacs, prescribed in the above said CBDT's Instructions.

8. Keeping in view the CBDT Instruction No. 21/2015 dated 10<sup>th</sup> 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.

**ASSESSEE'S CROSS OBJECTIONS**

9. As far as Assessee's Cross Objection is concerned, since we have dismissed the Appeal of the Revenue on account of low tax effect, as aforesaid, hence, the Cross Objection filed by the Assessee has become infructuous and dismissed as such.

10. In the result, the Revenue's Appeal as well as Assessee's Cross Objection stand dismissed.

Order pronounced 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**