

**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. 255/Del/2015
Assessment Year: 2011-12**

DCIT, CIRCLE 10(1), VS. M/S GLOBAL HEALTHLINE PVT. LTD.
NEW DELHI 4&5, COMMUNITY CENTRE,
ZAMRUDUR, KAILASH COLONY,
DELHI – 110 041
(APPELLANT) (RESPONDENT)

Department by : Sh. Sh. Arun Kumar Yadav, Sr. DR
Assessee by : None

ORDER

PER H.S. SIDHU, JM

The Department has filed this Appeal which is emanate from the Order dated 30.10.2014 of Ld. CIT(A)-XV, New Delhi pertaining to assessment year 2011-12. The grounds raised in the revenue's appeal reads as under:-

- 1. Whether on facts & circumstances of the case and in law, the ld. CIT(A) erred in deleting the addition of Rs. 7,31,483/- made on a/ c of marketing expenses ignoring the fact that accepting gifts, travel facilities, hospitality, cash of monetary grants from pharmaceutical and allied health care sector industry is prohibited by MCI.*
- 2. Whether on facts & circumstances of the case and in law, the ld. CIT(A) erred in not appreciating the fact that CBDT vide circular no. OS/2012 had held that such freebies by pharmaceutical and allied healthcare and inadmissible u/ s 37(1) of the I. T. Act.*
- 3. Whether on facts & circumstances of the case and in law, the ld. CIT(A) erred in deleting the addition of Rs2,93,181/-- made on account of personal usage of Cars ignoring the fact that assessee himself stunted that directors of the company are not having separate vehicular for their personal use.*

4. *Whether on facts & circumstances of the case and in law, the ld. CIT(A) erred in deleting the addition of Rs. 2,69,141/- made on account of Telephone, Postal & Interest expenses ignoring the fact that the directors of the company are not having any separate telephone for their personal use.*

5. *The appellant craves leave, to add, alter or, amend any ground of appeal raised above at the time of the hearing.*

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post at the address mentioned in Col. No. 11 of Form No. 36, which was returned back with the remarks "Left" and no new address has been furnished in the Registry records by the Assessee. 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 on the same address, therefore, we are deciding the present appeal *ex parte* qua assessee, after hearing the Ld. DR and perusing the records.

3. During the hearing, Ld. DR relied upon the order of the AO.

4. We have heard Ld. DR 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.”

5. 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.

6. 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.

7. In the result, the Revenue’s Appeal stands dismissed.

Order pronounced in the Open Court on 11/10/2017.

Sd/-

Sd/-

(L.P. SAHU)
ACCOUNTANT MEMBER

(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 11/10/2017

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR

