

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

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI H.S. SIDHU, JUDICIAL MEMBER**

**ITA No. 5446/Del/2015
Assessment Year: 2013-14**

ACIT, TDS-NOIDA ROOM NO. 110, 1 ST FLOOR, PLOT NO. A-2D, AAYAKAR BHAWAN, SECTOR-24, NOIDA	VS. M/S JAYPEE AGRA VIKAS LTD., SECTOR-128, NOIDA-201301 (PAN: AACJ2522K)
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(APPELLANT)

(RESPONDENT)

Department by	: Sh. Sh. Arun Kumar Yadav, Sr. DR
Assessee by	: Sh. S.K. Bhardwaj, Adv.

ORDER

PER H.S. SIDHU, JM

The Department has filed this Appeal which is emanate from the Order dated 14.5.2015 of Ld. CIT(A)-I, Noida pertaining to assessment year 2013-14. The grounds raised in the revenue's appeal reads as under:-

- 1. Ld. CIT(A)-I, Noida has erred in law and all facts deleting the demand on account of payment of bank guarantee commission ignoring the fact that Notification No. 56/2012 (F.No. 275/53/2012—IT(B), dated 31.12.2012 which provides that no TDS shall be done on payment like bank guarantee commission if effect from 1.1.2013 while in the case of the assessee the payment of bank guarantee commission was done before 1.1.2013.*
2. During the hearing, Ld. DR relied upon the order of the AO.
3. On the contrary, Ld. Counsel of the assessee stated that the tax involved in this case is below the prescribed limit fixed by the CBDT, hence, the appeal may be dismissed on this account.
4. 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.”

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 18/10/2017.

Sd/-
(R.S. SYAL)
VICE PRESIDENT

Dated: 18/10/2017

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

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR
