

**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
**BEFORE: SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM**

**ITA No.108/RPR/2015**  
(Assessment Year :2005-2006)

ITO, Janjgir-Champa	vs	Sumitra Singh, Prop. M/s Singh Transport, Vill. Pissod, Janjgir-Champa (C.G)
<b>PAN No. : AVOPS 7701 D</b>		
<b>(Appellant)</b>	..	<b>Respondent</b>

Revenue by : Shri O.P.Chaudhary, DR  
Assessee by : Shri R.B.Doshi , AR

**Date of Hearing : 19/01/2018**  
**Date of Pronouncement 19/01/2018**

**आदेश / O R D E R**

**Per Shri N.S.Saini, AM:**

This is an appeal filed by the Revenue against the order of the CIT(A), Bilaspur, dated 14.04.2015 for the assessment year 2005-2006.

2. The Revenue has taken the following grounds of appeal :-

- 1 *Whether the Ld. CIT (A) is justified in deleting the addition made by the AO by deciding the issue that sec. 40 (a)(ia) of the IT Act, 1961 has mention the individual in the list of specified person from 01.06.2007.*
2. *Whether the Ld. CIT (A) is justified in ignoring the proviso inserted with effect from 01.06.2002 below sub section 2 of section 194C that an individual or Hindu Undivided Family has to deduct tax at source in case total turn-over or gross receipt exceeds the specified limit u/s 44AB. Sec. 40(4)(ia) of the IT Act provides that expenditure on which tax is deductible at source under chapter XVII-B shall not be allowable if the assessee had failed to make such deduction of tax at source.*
3. *The appellant craves for leave to raise the grounds of appeal.*

3. At the time of hearing the AR of the assessee filed a computation showing that the tax effect in the present appeal filed by the Revenue is below Rs.10 lakhs. He submitted that in view of the CBDT Circular No.21/2015, dated 10<sup>th</sup> December, 2015, appeal filed by the Revenue is not maintainable and, hence, liable to be dismissed.

4. On the other hand, Id.DR for the Revenue has not controverted the submissions of Id.AR of the assessee that tax effect in the present appeal of the Revenue was below Rs.10 lakhs.

5. We find that the CBDT in Circular No.21/2015, dated 10<sup>th</sup> December, 2015, has stated that, as a measure for reducing litigation, it was increasing the monetary limits for filing of appeals by the department before the ITAT and High Courts and SLP before the Supreme Court. The said limit for not filing appeal to the Tribunal was fixed at Rs.10 lakhs. The CBDT has further stated that the said instruction shall apply retrospectively to pending appeals and that all appeals below the specified tax limits should be withdrawn/not pressed. However, appeals before the Supreme Court are to be governed by the limits operative at the time that the appeal was filed. The said Circular of the CBDT is binding on the officers of Income Tax Department. In view of this, we hold that the present appeal of the Revenue before the Tribunal is not maintainable and, hence, we dismiss the same in *limine*.

6. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the Court on Friday, the 19<sup>th</sup> Day of January, 2018 at Raipur.

**Sd/-**  
**(PAVAN KUMAR GADALE)**

न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(N. S. SAINI)**

लेखा सदस्य / ACCOUNTANT MEMBER

Raipur; दिनांक Dated 19/01/2018

प्र.कु.मि/PKM, Senior Private Secretary

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, Raipur / DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
Income Tax Appellate Tribunal, Raipur