

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH 'SMC', PATNA**

Before Sh. N. K. Saini, Accountant Member

ITA No. 111/Pat./2016 : Asstt. Year : 2000-01

ITA No. 112/Pat./2016 : Asstt. Year : 2001-02

ITA No. 113/Pat./2016 : Asstt. Year : 2002-03

Asstt. Commissioner of Income Tax, Central Circle-2, Patna	Vs	Sh. Brijnandan Prasad, Prabha Niketan, Bahadurpur Housing Colony, Near-R.B.I.Colony, Bhootnath Road, Patna-800020
(APPELLANT)		(RESPONDENT)
PAN No. ALRPP6520G		

Assessee by : None

Revenue by : Sh. Abhay Kumar, Sr. DR

Date of Hearing : 09.03.2018	Date of Pronouncement : 12.03.2018
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ORDER

These three appeals by the department are directed against the separate orders each dated 26.08.2016 of Id. CIT(A)-3, Patna.

2. Since, the appeals relates to the same assessee which were heard together so these are being disposed off by this consolidated for the sake of convenience and brevity.

3. Nobody was present on behalf of the assessee, neither any adjournment was sought. Therefore, the appeals are decided *ex-parte* qua the assessee. In the present case, it is noticed that the tax effect in each of these appeals is less than Rs.10 lacs and the department ought not to have filed the appeals as per the Circular No. 21 of 2015 issued by the CBDT.

4. On the other hand, the Id. D.R., although supported the order of the Assessing Officer, but could not controvert this fact that tax effect in each of these appeals is less than Rs.10,00,000/-.

5. After considering the submissions of the Id. DR and the material available on record, it is noticed that Section 268A has been inserted by the Finance Act, 2008 with retrospective effect from 01/04/99. The said section 268 of the Act provides that the Board may issue instruction or directions to the other income-tax authorities fixing monetary limits for not filing the appeals before the Appellate Tribunal or the Courts, said instructions/directions are binding on the income tax authorities.

6. It is noticed that the CBDT has issued Circular No.21 of 2015 dated 10.12.2015, vide which it has revised the monetary limit to Rs.10,00,000/- for not filing the appeal before the Tribunal. The relevant portion of the said circular reads 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 matter	Monetary Limit (in Rs)
1	<i>Before Appellate Tribunal</i>	<i>10,00,000/-</i>
2	<i>Before High Court</i>	<i>20,00,000/-</i>
3	<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.*

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9. *The monetary limits specified in para 3 above shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules. Further, filing of appeal in cases of Income Tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A of the IT Act, 1961, shall not be governed by the limits specified in para 3 above and decision to file appeal in such cases may be taken on merits of a particular 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. From Clause 10 of the above said circular it is clear that these instructions are applicable to the pending appeals also and as per clause 3, there is clear cut instruction to the department to withdraw or not to press the appeals filed before the ITAT wherein tax effect is less than Rs.10,00,000/-. These instructions are operative retrospectively to the pending appeals.

8. Keeping in view the CBDT Circular No.21 of 2015 dated 10.12.2015 and also the provisions of Section 268A of Income Tax Act, 1961, I am of the view that the Revenue should not have filed the instant appeal before the Tribunal.

9. In view of the above, without going into merits of the case, the appeals filed by the department are dismissed.

10. In the result, the appeals of the department are dismissed.

(Order Pronounced in the Court on 12/03/2018)

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 12/03/2018

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR