

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA (SMC) BENCH: AGRA**

BEFORE SHRI A. D. JAIN, JUDICIAL MEMBER,

**I.T.A No. 385/Agra/2018
(ASSESSMENT YEAR-2010-11)**

ITO-Ward 1(1)(3), Agra. (Revenue)	Vs.	Shri Ram Avtar Sharma, 76, Jaipur House Market, Agra. PAN: BVNPS1929M (Assessee)
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Revenue by	Shri Waseem Arshad, Sr. DR.
Assessee by	Shri R. C. Tomar, AR.

Date of Hearing	30.07.2018
Date of Pronouncement	07.08.2018

ORDER

This appeal has been filed by the Revenue against the order of the Id. CIT(A) dated 27.02.2018, for A.Y. 2010-11.

2. I note that in the appeal filed by the Revenue the tax effect on the income in dispute is less than Rs.20 lacs.

3. The Central Board of Direct Taxes, vide Circular No. 3/2018 dated 11th July, 2018 file no.279 of Misc. 142/2007 - ITJ (PT), has issued the direction in supersession of the Instruction No. 21/2015 dated 10th December, 2015 in

consonance with the power entrusted u/s.268A of the Income Tax Act, that no appeal should be filed before this Tribunal in case the tax effect does not exceed Rs.20 lac. The "tax effect" in this regard means the difference between the tax on the total income assessed and the tax that would have been chargeable, had such total income been reduced by the amount of income in respect of issues against which appeal is intended to be filed. This Circular further states that tax will not include any interest thereon, unless the chargeability of interest itself is in dispute. In paragraph 13, which is reproduced as under, it has been mentioned in the Circular, that this instruction will apply even to pending appeals:

"13. This instruction will apply to SLPs/ appeals/cross objections/references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. "

4. The tax effect in this appeal does not exceed Rs.20 lac. In view of this fact, as per the CBDT Circular No. 3/2018 dated 11th July, 2018 file no.279 of Misc. 142/2007 - ITJ (PT), the Revenue is not supposed to press this appeal. I, therefore, dismiss the appeal filed by the revenue in limine, without going into the merits of the case, as in my opinion, the Circular issued by the CBDT is binding on the departmental officers in view of the provisions of Section 268A(1) of the Income

Tax Act. The said view has been taken by the Hon'ble Supreme Court in the case of 'Navneet Lal Zaveri', 56 ITR 198 (SC). I, accordingly, dismiss the appeal filed by the Revenue.

5. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open court on 07/08/2018.

**Sd/-
(A.D. JAIN)
JUDICIAL MEMBER**

AKV

Copy forwarded to:

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

ASSISTANT REGISTRAR