

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'D' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A .No. 2827/DEL/2015 (A.Y 2010-11)

M M Educational Institute B-36m Govindam Palace Old DLF, Sector-14 Gurgaon AAQFM3811M (APPELLANT)	Vs	ITO Ward-2(4), 6 th Floor, HSI IDC Building, Vanijya Nikunj, Udyog Vihar, Phase-II Gurgaon (RESPONDENT)
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I.T.A .No. 3266/DEL/2015 (A.Y 2010-11)

ITO Ward-2(4), 6 th Floor, HSI IDC Building, Vanijya Nikunj, Udyog Vihar, Phase-II Gurgaon (APPELLANT)	Vs	M M Educational Institute B-36m Govindam Palace Old DLF, Sector-14 Gurgaon AAQFM3811M (RESPONDENT)
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Appellant by	None
Respondent by	Smt. Naina Soin Kapil, SR. DR

Date of Hearing	10.10.2018
Date of Pronouncement	11.10.2018

ORDER

PER SUCHITRA KAMBLE, JM

These two appeals are filed by the assessee and the Revenue against the order dated 20/3/2015 passed by CIT(A)-1, Gurgaon for Assessment Year 2010-11.

2. When the matter was called out for hearing, none appeared for the assessee. After going through the earlier proceedings, it was seen that despite issuing notice to the assessee, none appeared for the assessee on 18/7/2018 as well as on 10/10/2018.

3. Having regard to Rule 19(2) of Income Tax Appellate Tribunal Rules and following various decisions of Delhi Bench of the Tribunal including that of Multiplan India Ltd. [38 ITD 320 (Delhi)] and Hon'ble Madhya Pradesh High Court's decision in case of Estate of Late Tukojirao Holkar Vs. CWT [223 ITR 480 (MP)], the appeal filed by the assessee is treated as un-admitted and dismissed.

4. In result, the appeal of the assessee being ITA No. 2827/Del/2015 is dismissed for non prosecution.

5. As regards the Revenue's appeal, from the perusal of the records and the submissions of the Ld. DR, it can be seen that the tax effect in this appeal is below 20 lakhs. Therefore, the Ld. DR was asked as to why the appeal filed by the revenue should not be dismissed due to low tax effect in the light of the recent CBDT Circular No.03/2018 dated 11th July, 2018.

6. We have heard the Ld. DR. It is found that pursuant to the mandate of section 268A, the CBDT has issued Circular No. 03 of 2018, dated 11th July, 2018 with retrospective effect, revising the monetary limit to Rs.20,00,000/- for not filing appeals before the Tribunal. It is further found that as the tax effect involved in the instant appeal is less than Rs.20,00,000/-, the present appeal is not maintainable. The Ld. DR, although supported the orders of the Assessing Officer, but could not controvert the fact that tax effect involved in this appeal is less than Rs.20,00,000/-.

7. Going by the prescription of the above stated Circular, it is observed that the Instruction is applicable to the pending appeals also with retrospective effect and there is a clear-cut direction to the Department to withdraw or not press such appeals filed before the ITAT, wherein tax effect is less than Rs.20,00,000/-. We are, therefore, of the view that the Revenue should have either not filed the instant appeal before the Tribunal or withdrawn the same as the tax effect in this appeal is admittedly less than the prescribed limit, i.e., Rs. 20,00,000/- for not filing the appeal. Accordingly, we dismissed the instant appeal without going into merits of the cases.

8. The Ld. DR has brought to our notice a letter dated 20.08.2018 of the Director (ITJ), CBDT, New Delhi addressed to All the Principal CCITs in which para no. 10 of the earlier Circular dated 11.7.2018, enumerating certain instances in which the appeals should be contested notwithstanding the low tax effect, has been revised. He, however, could not place any material on record to demonstrate that the above appeal is covered by the amended para of the Circular. Under these circumstances, we dismissed the appeal filed by the Revenue and give liberty to the Department to file Miscellaneous Applications, if it is found that either the tax effect is more than the prescribed limit of Rs.20,00,000/- or the appeal gets covered in the revised para 10 of the letter dated 20.08.2018. Accordingly, the appeal of the Revenue being ITA No. 3266/Del/2015 stands dismissed.

9. In result, both the appeals are dismissed.

Order pronounced in the Open Court on 11th OCTOBER, 2018.

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 11/10/2018
*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	10 .10.2018
Date on which the typed draft is placed before the dictating Member	10 .10.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	11.10.2018
Date on which the final order is uploaded on the website of ITAT	11 .10.2018
Date on which the file goes to the Bench Clerk	11 .10.2018
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	

