

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

ITA No.1631/Del/2015
Asstt. Year: 2011-12

ITO-1, Station Road, Wahid Nagar, Najibabad, Bijnor Uttar Pradesh Pin - 246763	Vs.	Madhuri Garg W/o Shri Vijay Kumar Garg, Kotwali Road Najibabad PAN AEIPG0675H
(Appellant)		(Respondent)

Department by:	Shri G. Johnson, Sr.DR
Assessee by :	Shri Manish Garg, CA
Date of Hearing	06/12/2018
Date of pronouncement	06/12/2018

ORDER

PER AMIT SHUKLA, J.M.

The appeal filed by the Revenue is directed against the order of Ld. Commissioner of Income Tax (Appeals), Moradabad dated 29.01.2015 pertaining to the assessment year 2011-12.

2. The income assessed as long term capital gain of Rs. 1,00,47,528/- on which the tax determined @ 10% is Rs. 10,04,752/- which is less than its prescribed limit of Rs. 20 lacs. Admittedly, the tax effect in the Departmental Appeal is less than Rs.20 lakhs. Vide

Circular No. 3 of 2018 dated 11.07.2018 issued by Central Board of Direct Taxes (CBDT) under section 268A of the I.T. Act, it has been directed that Department shall not file appeal before the Tribunal in case where the tax effect does not exceed the monetary limit of Rs.20 lakhs. It is also directed that this instruction will apply retrospectively to the pending appeals and appeals to be filed henceforth in the Tribunal. It is also directed in this Circular, that pending appeals below the specified tax effect may be withdrawn/not pressed. Learned Sr. DR, who appeared on behalf of Revenue, did not press the appeal in view of the aforesaid Circular of CBDT. We may also note that this appeal of Revenue would not fall within the exceptions provided in the aforesaid Circular. In the result, the Departmental Appeal is not maintainable, in view of aforesaid CBDT Circular. The Appeal of Revenue is dismissed as withdrawn/not pressed by the Learned Sr. DR. We clarify that Revenue will be at liberty to file a miscellaneous application seeking recall of this order for restoration of the appeal, if it is found that the appeal of Revenue is not covered by aforesaid CBDT Circular.

3. In the result, the appeal filed by the Revenue is dismissed in the terms indicated above.

Order pronounced in the Open Court on 6th December, 2018.

sd/-

sd/-

(L.P. SAHU)
ACCOUNTANT MEMBER

(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 06 /12/2018

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi