

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : C : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

Miscellaneous Application No.90/Del/2017
(ITA No.2264/Del/2014)
Assessment Year: 2009-10

ITO,
Ward 13(1),
New Delhi.

Vs Shri Hemant Kumar Sharma,
66, Udai Park,
New Delhi.
PAN: AGOPS7779L

ITA No.2264/Del/2014
Assessment Year: 2009-10

ITO,
Ward 13(1),
New Delhi.

Shri Hemant Kumar Sharma,
66, Udai Park,
New Delhi.
PAN: AGOPS7779L

(Applicant/Appellant)

(Respondent)

Assessee by : Shri Saubhagya Aggarwal, Advocate
Revenue by : Shri Sarabjeet Singh, Sr. DR
Date of Hearing : 01.03.2019
Date of Pronouncement : 01.03.2019

ORDER

PER R.K. PANDA, AM:

The Revenue through this Miscellaneous Application requests the Tribunal to recall the *ex parte* order passed by it on the ground of low tax effect.

2. The Id. DR, referring to the contents of the Miscellaneous Application submitted that the tax effect involved in the appeal is Rs.11,47,137/- which is more

than Rs.10 lakhs and, therefore, the order passed by the Tribunal on 29th September, 2016 being not in accordance with the CBDT Instructions No.21 dated 10th December, 2015 should be recalled.

3. We have considered the rival arguments and perused the material available on record. We find that the Tribunal inadvertently dismissed the appeal filed by the Revenue on account of low tax effect where as the tax involved in the appeal is admittedly more than Rs.10 lakhs as it was prescribed at that time for withdrawal of the appeal by the Revenue. We, therefore, recall the order of the Tribunal and the Miscellaneous Application filed by the Revenue is accordingly allowed.

ITA No.2264/Del/2014

4. After hearing both the parties and perusing the orders of the authorities below, we find the tax effect in the instant case is Rs.11,47,137/- as per the M.A. filed by the Revenue. We find that the appeal filed by the Revenue is not maintainable in view of the CBDT Circular No.03/2018 dated 11th July, 2018 which is applicable even to pending appeals. The appeal filed by the Revenue is, accordingly, dismissed.

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

The decision was pronounced in the open court on 01.03.2019.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 01st March, 2019

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi