

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "Friday/A" NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
MA No.563/Del/2017
(In ITA No.2716/Del/2013)
Assessment Year : 2009-10**

ITO Ward- 2 (3) Meerut	Vs.	Sh. Shah Khalid 30, Masjid Quereshian Bani, Sarai, Kisari Gate, Meerut
		PAN No.AQKPK4929Q
(Appellant)		(Respondent)

**ITA No.2716/Del/2013
Assessment Year : 2009-10**

ITO Ward- 2 (3) Meerut	Vs.	Sh. Shah Khalid 30, Masjid Quereshian Bani, Sarai, Kisari Gate, Meerut
		PAN No.AQKPK4929Q
(Appellant)		(Respondent)

Assessee by : None
Department by : Shri P.V. Gupta, Sr DR

Date of hearing : 29-03-2019
Date of pronouncement : 03-04-2019

ORDER

PER R. K. PANDA, AM :

The revenue through this Miscellaneous Application requests the Tribunal to recall the order passed by it dismissing the appeal filed by the revenue on account of low tax effect.

2. None appeared on behalf of the assessee. Therefore, the miscellaneous application is being disposed off on the basis of material available on record and after hearing the Ld. DR.

3. The Ld. DR pointed out that the tax effect involved in the instant appeal filed by the revenue is Rs.11,13,266/- and therefore, the order passed by the Tribunal dismissing the appeal on account of low tax effect in view of CBDT Circular No.21/2015 dated 10.12.2015 deserves to be recalled and the appeal should be decided on merit.

4. After hearing the Ld. DR and on perusal of the material available on record, we find that the tax effect involved in the appeal filed by the revenue is admittedly above Rs.10 lacs. Therefore, a mistake has been crept in the order of the Tribunal for which we recall the order of the Tribunal.

5. The miscellaneous application filed by the revenue is accordingly allowed.

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6. After hearing the Ld. DR and on perusal of the orders of the authorities below, we find that the tax effect involved is admittedly below Rs.20 lacs. In view of the CBDT Circular No.03/2018 [F.No.279/Misc.142/2007-ITJ (Pt.)] dated 11.07.2018 raising the monetary limit to Rs.20,00,000/- for filing of the appeal by the department before ITAT the appeal of the revenue is not maintainable. As per para 3 of the said circular it is also clarified that the pending appeals of the department before ITAT having monetary limit of Rs. 20,00,000/- or less will be treated as withdrawn. Since in the instant case the tax effect involved is admittedly below Rs. 20,00,000/-, therefore, in view of the latest CBDT Circular cited

(supra) the appeal filed by the revenue is dismissed on account of low tax effect.

7. In the result, the miscellaneous application filed by the revenue is allowed and appeal filed by the revenue is dismissed.

Order pronounced in the open court on 03.04.2019.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

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

Dated: 03-04-2019.

Neha

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
- 5) The DR, I.T.A.T., New Delhi

By Order

Assistant Registrar
ITAT, New Delhi

Date of dictation	01.04.2019
Date on which the typed draft is placed before the dictating Member	
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	
Date on which the final order is uploaded on the website of ITAT	03.04.2019
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	