

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'F', New Delhi**

**Before : Shri Amit Shukla, Judicial Member And
Shri L.P. Sahu, Accountant Member**

**ITA No. 4890/Del/2016
Assessment Year: 2013-14**

DCIT (E), Circle 2(1), New Delhi. (Appellant)	vs.	M/s. Prakash Educational Society, 620-A, Faiz Road, Karol Bagh, New Delhi (PAN- AAATP1227G) (Respondent)
--	------------	--

Appellant by	Sh. Surender Pal, Sr. DR
Respondent by	None

Date of Hearing	29.04.2019
Date of Pronouncement	29.04.2019

ORDER

Per L.P. Sahu, A.M.:

This appeal is filed by the Revenue against the order passed by learned CIT(A)-40, New Delhi for the assessment year 2013-14.

2. Heard the ld. DR. None is present on behalf of the assessee.
3. During the course of hearing, the Ld. DR submitted that there is no doubt that tax effect involved in this appeal is less than Rs.20 lakhs, thus, bound by the departmental instruction, the appeal has to be withdrawn. However, attention was invited to para 10 of the Circular No. 3/2018, dated 11th July, 2018, which has been modified by Circular dated 20th August, 2018 and in terms of the said modification the Departmental Representative made a

prayer that permission to pray for recall of the order may be granted in case any of the conditions in the reports made available by the A.O. subsequently, show that the issues were required to be contested. The modified para is extracted hereunder:

“10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

(a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or

(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or

(c) Where Revenue Audit objection in the case has been accepted by the Department, or

(d) Where addition relates to undisclosed foreign income/undisclosed foreign assets (including financial assets)/ undisclosed foreign bank account.

(e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI/ ED/ DRI/ SFIO/ Directorate General of GST Intelligence (DGGI).

(f) Cases where prosecution has been filed by the Department and is pending in the Court.”

4. Going by the prescription of Circular No. 3/2018, dated 11th July, 2018, we are 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 the appeal is admittedly less than the prescribed limit, i.e., Rs. 20,00,000/-. Accordingly, we dismiss the appeal filed by the Revenue without going into merits of the case. However, it is made clear that the Department is at liberty

to file Miscellaneous Application, if the tax effect is found to be more than the prescribed limit of Rs.20,00,000/- or any of the conditions etc., as available in the amendment carried out in para 10 of Circular No. 3/2018, dated 20.08.2018, is made out. Accordingly, the appeal of the Revenue deserves to be dismissed as non-maintainable.

5. In the result, the appeal is dismissed.

Order pronounced in the open court on 29.04.2019.

Sd/-

(Amit Shukla)
Judicial member

Sd/-

(L.P. Sahu)
Accountant Member

Dated: 29.04.2019

aks

Copy of order forwarded to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>Commissioner</i>	(4)	<i>CIT(A)</i>
(5)	<i>Departmental Representative</i>	(6)	<i>Guard File</i>

By order

Assistant Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi