

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'G': NEW DELHI)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 4998/Del/2014
(Assessment Year: 2010-11)**

Income Tax Officer (E), Trust Ward- II, Delhi.	Vs.	Stage Door, The Welcome theater Studio, First floor, 9, Nizamuddin East, New Delhi.
PAN No: AAATM8292N		
APPELLANT		RESPONDENT

**ITA No:- 1624/Del/2015
(Assessment Year: 2011-12)**

Income Tax Officer (E), Ward- 2(2), New Delhi.	Vs.	Stage Door, The Welcome theater Studio, First floor, 9, Nizamuddin East, New Delhi.
PAN No: AAATM8292N		
APPELLANT		RESPONDENT

Revenue by : Shri S.S Rana, CIT(DR) and
Shri Saras Kumar, Sr. DR
Assessee by : Shri Sudhir Kumar, CA

CONSOLIDATED ORDER

PER BENCH

(A) The aforementioned appeals by Revenue are taken up together for the sake of convenience and brevity; and are hereby disposed off through this Consolidated Order.

Grounds taken in these appeals of Revenue are as under:

ITA No.- 4998/Del/2014

"1. On the facts and in the circumstances of the case and in Law, the Ld. CIT(A) has erred in ignoring the fact that major receipt i.e. 95% of the assessee has been obtained from sponsorship charges received from conducting stage shows and squarely covered under the first limb of proviso to section 2(15) of the Act.

2. On the facts and in the circumstances of the case and in law, the Ld CIT(A) has erred in ignoring the fact that the assessee is not running any educational institution and is neither providing any kind of training nor any kind of 'Scholastic education'. The assessee is simply running a theatre and conducting stage shows by trained art workers and obtaining receipt by way of sponsorship and hence, the decision made in this case of Sole Trustee Lok Shikshana Trust vs. CIT 10 ITR 234 of Hon'ble Apex Court is not applicable in the case of the assessee.

3. On the facts and in the circumstances of the case and in law, the Ld CIT(A) has erred in ignoring the fact that the AO was left with no option except to complete the time barring assessment based on the material available on records as even the counsel of the assessee vide his letter received on 18/02/2014 informed that he has been withdrawing from the case due to the non-compliance of the assessee and even after that no reply was received from the assessee.

4. The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing."

ITA No. 1624/Del/2015

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the fact that major receipt of the assessee has been obtained from sponsorship charges received from conducting stage shows and squarely covered under the first limb of proviso to section 2(15) of the IT Act.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the fact that the assessee is not running any educational institution and is neither providing any kind of training nor any kind of 'Scholastic education'. The assessee is simply running a theatre and conducting stage shows by trained art workers and obtaining receipts by way of sponsorship and hence, in view of the decision made in this case of Sole Trustee Lok Shikshana Trust vs. CIT 10ITR

234 of Hon'ble Apex Court is not applicable in the case of the assessee.

3. *The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing."*

(B) Both sides, [Representatives of Revenue and the Assessee] were in agreement, at the time of hearing before us, that the tax effect in the present appeals are below Rs. 50,00,000/-. Vide recent CBDT Circular No. 17/2019 dated 08.08.2019 read with earlier CBDT Circular No. 3 of 2018, dated 11.07.2018, minimum threshold limit of tax effect for filing of appeals by Revenue in Income Tax Appellate Tribunal has been enhanced to Rs. 50,00,000/-. In a subsequent clarification issued by CBDT vide F.No. 279/Misc/M-93/2018-ITJ, dated 20/08/2019, it has been clarified by CBDT that the aforesaid revised monetary limit is also applicable to all pending appeals in ITAT. Having regard to the aforesaid, learned AR for the assessee submitted that the appeals were not maintainable. The learned Commissioner of Income Tax (Departmental Representative) ["Ld. CIT (DR)", for short] and learned Senior Departmental Representative ("Ld. Sr. DR", for short) also did not press these appeals. Therefore, both these appeals filed by Revenue are dismissed, being not maintainable; and also being not pressed.

(C) Before we part, we expressly clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961; seeking restoration of either of these appeals if it is found that aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018 are not applicable.

(D) In the result, these two appeals filed by Revenue are dismissed being not maintainable, and also being not pressed. Our decision was orally pronounced in Open Court after conclusion of hearing on the date of hearing. Now this detailed written order is pronounced in the Open Court on 20/11/2019.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 20/11/2019
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
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	
Date on which the file goes to the Bench Clerk	
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	