

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

**ITA No. 4628/Del/2012
Assessment Year: 2006-07**

ADIT, Circle 1(1),
(Intl. Taxation)
204, Drum Shape Building,
IP Estate, New Delhi

(APPELLANT)

vs. Sh. Ronojoy Dutta,
C/o Bhalla & Co.
B-17, Maharani Bagh,
New Delhi – 65
(PAN: AHOPD6113E)

(RESPONDENT)

Appellant by : None
Respondent by : Sh. Anil Bhalla, CA

**Date of Hearing : 17-8-2016
Date of Order : 17-8-2016**

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 22.6.2012 of Ld. CIT(A)-XXIX, New Delhi pertaining to assessment year 2006-07 on the following grounds:-

1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding that there exist no relation of employer – employee between the assessee and the Sahara Airlines.
2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 10,00,000/- to the declared income of Rs. 4,26,24,800/- u/s. 17(2) made by the AO treating the facilities of lodging, boarding and

logistics provided by Sahara Airlines as of in the nature of perquisites.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 10,00,000/- to the declared income of Rs. 4,26,24,800/- u/s. 17(2) made by the AO, holding that even section 28(iv) is not applicable as no benefit has been derived by the assessee out of the facilities of lodging, boarding and logistics in India provided by the Sahara Airlines.
4. The appellant craves to add, amend, modify or alter any grounds of appeal at the time or before the hearing of the appeal.

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, Department, nor its Representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the Department therefore, we are deciding the present appeal exparte qua Department, after hearing the Ld. A.R. of the assessee and perusing the records.

3. From the above, we find that the tax effect in the Revenue's Appeal is less than Rs.10,00,000/-, therefore, the Department's Appeal is not maintainable, in view of the Circular No. 21/2015 dated 10th December, 2015 issued vide F.No. 279/Misc. 142/2007-ITJ (Pt.) by the CBDT. For the sake of convenience, the relevant para nos. 3 & 10 of the aforesaid CBDT's Circular are reproduced as under:-

“3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

S No	Appeals in Income-tax matters	Monetary Limit (in Rs)
1	Before Appellate Tribunal	10,00,000/-
2	Before High Court	20,00,000/-
3	Before Supreme Court	25,00,000/-

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed.”

4. It is not in dispute that the Board's instruction or directions issued to the income-tax authorities are binding on those authorities, therefore, the Department should have withdrawn/ not pressed the present Appeal, in view of

the aforesaid instructions since the tax effect in the instant Appeal is less than the amount of Rs. 10 lacs, prescribed in the above said CBDT's Instructions.

5. Keeping in view the CBDT Instruction No. 21/2015 dated 10th December, 2015, we are of the view that the Revenue should have withdrawn/ not pressed the instant appeal before the Tribunal. We are also of the view that the said Instructions are applicable for the pending appeals and appeals to be filed henceforth in Tribunal. Accordingly, the Revenue's Appeal is dismissed.

6. In the result, Appeal filed by the Revenue Stands dismissed.
Order pronounced in the Open Court on 17/8/2016.

SD/-
(O.P. KANT)
ACCOUNTANT MEMBER

SD/-
(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 17/8/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR

