

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI J.S. REDDY, ACCOUNTANT MEMBER**

**ITA No. 1747/Del/2014
Assessment Year: 2009-10**

DCIT, CC-2,
NEW DELHI
ROOM NO. 323, 3RD FLOOR,
ARA CENTRE, JHANDEWALAN
EXTN., NEW DELHI

vs. M/s JJ ENTERPRISES
RANKHANDI ROAD, DEOBAND
SAHARANPUR, UTTARPRADESH

(APPELLANT)

**(PAN: AABFJ69970H)
(RESPONDENT)**

Appellant by : Ms. Sulekha Verma, CIT(DR)
Respondent by : Sh. OP Agarwal, Adv.

**Date of Hearing : 04-05-2016
Date of Order : 04-05-2016**

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 30.1.2014 of Ld. CIT(A)-III, New Delhi pertaining to assessment year 2009-10 on the following grounds:-

- “1. *On the facts and in the circumstances of the case, the Ld. CIT(A) is erred in deleting the addition of Rs. 16,86,225/- made by the AO on account of sale of scrap.*
2. *On the facts and in the circumstances of the case, the CIT(A) erred in violating the provisions of Rule 46A of the I.T. Rule, 1962 by accepting the fresh evidences without according an opportunity to the AO for consideration of same.*
3. *On the facts and in the circumstances of the case, the CIT(A) is erred in holding that no addition can be made in the search assessment under the provisions of section 153A when no incriminating material relating to the issue is found.*

4. *The order of the CIT(A) is erroneous and is not tenable on facts and in law.*
5. *The appellant craves leave to add, alter or amend any / all of the grounds of appeal before or during the course of the hearing of the appeal.*

2. We find that Revenue in the Grounds of Appeal before the Tribunal has challenged the deletion of addition of Rs. 16,86,225 vide ground no. 1, as aforesaid.

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 04/05/2016.

Sd/-
(J.S. REDDY)
ACCOUNTANT MEMBER

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

Dated: 04/05/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR

