

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

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

**ITA No. 1306/Del/07
Assessment Year: 1998-99**

Dy. CIT, Circle 23(1),
Room No. 190, CR Bldg.,
IP Estate, New Delhi

vs. M/s Wimco Greens,
C-14, Lajpat Nagar,
Phase-II, New Delhi
(PAN: AAACW020F)

(APPELLANT)

(RESPONDENT)

Appellant by : Sh. T. Vasanthan, Sr. DR
Respondent by : Sh. Rohit Jain, Adv. & Sh. Rohit Garg, CA

Date of Hearing : 25-05-2016

Date of Order : 01-06-2016

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 22.12.2006 of Ld. CIT(A)-XVI, New Delhi pertaining to assessment year 1998-99 on the following grounds:-

- 1. On the facts and circumstances of the case the ld. CIT(A) has erred in law and on facts in deleting the addition made in respect of management fees and licence fee on receipt basis by the AO to the income of the assessee.*
- 2. On the facts and circumstances of the case the CIT(A) has erred in law and on facts in directing the AO to recomputed the income of the assessee from management fees and licence fees on accrual basis of 1/8th of the total as claimed by the assessee.*

3. *On the facts and circumstances of the case the CIT(A) has failed to appreciate that the assessee has claimed Business Promotion Expenditure on actual and not on accrual basis while showing receipt on sale of ETP, Licence Fee and Management Charges of 1/8th on accrual basis.*
4. *On the facts and circumstances of the case the CIT(A) has erred in law and on facts in directing the AO to allow expenses of Rs. 12,00,000/- paid towards professional fees to M/s Talent Marketing Pvt. Ltd.*
5. *On the facts and circumstances of the case the CIT(A) has erred in law and on facts in ignoring the fact that the assessee failed to prove the genuineness of the payments made to TML.*
6. *The appellant craves leave to add, alter or amend any of the grounds of appeal before or during the course of hearing of the appeal.”*

2. We have heard both the parties and perused the material on record. 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
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		<i>(in Rs)</i>
1	<i>Before Appellate Tribunal</i>	<i>10,00,000/-</i>
2	<i>Before High Court</i>	<i>20,00,000/-</i>
3	<i>Before Supreme Court</i>	<i>25,00,000/-</i>

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.”

3. 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.

4. 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.

5. In the result, Appeal filed by the Revenue Stands dismissed.

Order pronounced in the Open Court on 01/06/2016.

Sd/-

**(O.P. KANT)
ACCOUNTANT MEMBER**

Sd/-

**(H.S. SIDHU)
JUDICIAL MEMBER**

Dated: 01/06/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR