

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 3094/Del/2013  
Assessment Year: 2009-10**

ITO, WARD 39(4)  
New Delhi

vs. SH. VED PAL,  
(PROP. OF M/S SRISHTY CONSTRUCTION  
142, VARDHMAN DIAMOND PLAZA,  
MOTIA KHAN, PAHAR GANJ,  
NEW DELHI -55  
**(PAN: ACKPV8785H)**  
**(RESPONDENT)**

**(APPELLANT)**

Appellant by : Sh. V.R. Sonbhadra, Sr. DR  
Respondent by : Sh. Krishan Kant Sharma, Adv.

**Date of Hearing : 03-02-2016  
Date of Order : 05-02-2016**

**ORDER**

**PER H.S. SIDHU, J.M.**

This appeal by the Department is directed against the Order dated 22.2.2013 of Ld. CIT(A)-XXVIII, New Delhi pertaining to assessment year 2009-10 on the following grounds:-

*“1. In the facts and circumstances of the case, the Ld. CIT(A) erred restricting the addition made by the AO on account of non deduction of TDS u/s. 40(a)(ia) on mechanical excavation and shuttering expenses to Rs. 3,83,731/-.*

*2. In the facts and circumstances of the case, the ld. CIT(A) erred in deleting the addition made by the AO on account of bad debts as the assessee had not furnished necessary documentary evidences for claiming bad debts.*

*3. In the facts and circumstances of the case, the ld. CIT(A) has erred in deleting the addition made by the AO on account of personal use of telephone, car expenses etc. as assessee had not furnished necessary*

*documentary evidences for claiming the above expenses exclusively for business purposes.*

*It is prayed that the order of the CIT(A) is contrary to the facts on record and the settled position of law; and the order of the AO deserves to be restored.”*

2. We find that Revenue in the Grounds of Appeal before the Tribunal has challenged the deletion of addition of Rs. 3,83,731/- 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 10<sup>th</sup> 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:***

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

***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 10<sup>th</sup> 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 05/02/2016.

**Sd/-**

**(L.P. SAHU)**  
**ACCOUNTANT MEMBER**

**Sd/-**

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

Dated: 05/02/2016

**\*SR BHATNAGAR\***

Copy forwarded to: -

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

TRUE COPY

By Order,

**ASSISTANT REGISTRAR**