

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'D' : NEW DELHI

BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER, AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No. 5781/Del /2012
Assessment Year: 2009-10

The I.T.O
Ward - 42(2)
New Delhi

Vs. Shri Jai Veer Singh Mann
House No. 592, Village Khera Kurd
Narela, New Delhi - 110 082.

[Appellant]

[Respondent]

Date of Hearing : 29.12.2015
Date of Pronouncement: 30.12.2015

Appellant by : Shri K.K. Jaiswal, Sr. DR
Respondent by : None

ORDER

PER CHANDRA MOHAN GARG, JUDICIAL MEMBER

This appeal filed by the Revenue is directed against the order of the CIT(A)-XXX, New Delhi, dated 08/08/2012 for A.Y 2009-10.

2. This appeal has been fixed for hearing in view of the recent CBDT Instruction No. 21/2015 dated 10.12.2015, revising the monetary limit of Rs.10.00 lakh for not filing the appeal before the Tribunal in terms of section 268A(1) of the Income-tax Act.

3. The CBDT in its recent Circular No. 21/2015 dated 10.12.2015 has provided that no departmental appeal shall be filed before the 1TAT wherein the tax effect involved is less than Rs.10 lakhs. Further, in para 10 of the Circular, it is provided that this instruction would apply retrospectively and the pending appeals below the specified tax limit of Rs.10 lakhs may be withdrawn/not pressed.

4. The learned CIT-DR appearing on behalf of the Revenue before us, at the outset, submitted that appeal can be withdrawn only after getting the approval of competent authority. He further referred to para 7 of the circular to submit that dismissal of appeal, however, in any case, on account of low tax effect should not be considered as a precedence in the matters of subsequent years where the tax effect is above the monetary limit prescribed by this Circular and the issue should be decided on merits.

5. None appeared on behalf of the assessee. However, the appeal was heard ex parte as the CBDT circular is beneficial to them.

6. After considering the submissions of both the parties, we find that prima facie, the tax effect involved in these appeals by the Revenue is below Rs. 10.00 lakhs and, therefore, we deem it proper to dismiss the appeals particularly because the pending appeal is covered by circular in view of para 10 of the circular. However, we may clarify that if on receipt of this order, the Assessing Officer finds that the tax effect is above Rs.10 lakhs or in any other manner, the circular is not applicable in view of exceptions culled out in the circular, he will be at liberty to file miscellaneous application for recalling of this order which the Tribunal will consider in accordance with law. We further find considerable force in the contention of the CIT/DR that this order cannot be considered as an acceptance by the Revenue on the issue involved in these appeals and will not be an estoppel for the Revenue to take up the issues, involved in these appeals, before ITAT on merits if the tax effect in those years is more than Rs.10 lakhs.

7. Keeping in view the above Circular and the provisions of section 268A of the Income-tax Act, 1961 and without going into merits of the cases, we dismiss the instant appeal filed by the Revenue as tax effect in the appeal is less than Rs.10 lakhs.

8. In the result, the appeal of the Revenue stands dismissed as withdrawn.

The order is pronounced in the open court on 30.12.2015.

Sd/-

**(S.V. MEHROTRA)
ACCOUNTANT MEMBER**

Sd/-

**(C.M. GARG)
JUDICIAL MEMBER**

Dated: 30th December, 2015

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi