

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'E': NEW DELHI**

**BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER  
AND  
SH. O.P. KANT, ACCOUNTANT MEMBER**

ITA No. 5155/Del/2010  
Assessment Year: 1998-99

Income Tax Officer, Ward-1(4), Meerut	Vs.	Sh. Mukesh Kumar Jain, 68/3, Kamla Nagar, Meerut (PAN : ACAPJ7370A)
(Appellant)		(Respondent)

Appellant by	Sh. P. DAM Kanunjna, Sr.DR
Respondent by	Sh. Sandeep Sapra, Adv.

Date of hearing	07.03.2016
Date of pronouncement	30.03.2016

**ORDER**

**PER O.P. KANT, A.M.:**

This appeal by the Revenue is directed against the order of learned Commissioner of Income Tax(Appeals) dated 13.09.2010 in relation to assessment year 1998-99, raising the following grounds of appeal:

1. *Whether in the facts and circumstances of the case, the CIT(Appeals) has erred in law in deleting the addition of Rs. 11,90,120/- made by A.O. on account of sale of assets despite the A.O. holding the sale bills issued by M/s. Bishan Chand Mukesh Kumar Sarraf and M/s. B.M. Jewellers (P.) Ltd. as bogus.*
  2. *In the facts and circumstances of the case, the order of the Commissioner of Income Tax(Appeals) may be set aside and that of the A.O. restored.*
2. We have heard both the parties and perused the relevant material on record. It is noticed that the CBDT has issued Circular

No. 21 of 2015 dated 10.12.2015 with retrospective effect, revising the monetary limit to Rs.10,00,000/- for not filing appeals before the Tribunal. The Id. Sr. Departmental Representative, although supported the order of the Assessing Officer, but could not controvert the fact that tax effect involved in the appeal is less than Rs.10,00,000/-.

3. From para 10 of the above Circular, it is palpable that the Instruction is applicable to the pending appeals also with retrospective effect and there is a clear-cut direction to the Department to withdraw or not press such appeals filed before the ITAT, wherein tax effect is less than Rs.10,00,000/-. Going by the prescription of the afore-noted Circular, we are of the view that the Revenue should have either not filed the instant appeal before the Tribunal or withdrawn the same as the tax effect in this appeal is admittedly less than the prescribed limit i.e. Rs. 10,00,000/- for not filing the appeal. Accordingly, we dismiss the instant appeal without going into merits of the case.

4. In the result, the appeal of the Revenue stands dismissed.

The decision is pronounced in the open court on 30<sup>th</sup> March, 2016.

Sd/-

**(DIVA SINGH)**  
**JUDICIAL MEMBER**

Dated: 30<sup>th</sup> March, 2016.

RK/-

Copy forwarded to:

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

Sd/-

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