

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

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

**I.T.A .No.-6406/Del/2015
(ASSESSMENT YEAR-2011-12)**

ACIT, Circle-14(1), New Delhi (APPELLANT)	vs	K.S.Softnet Solutions Pvt.Ltd., 58A/4, Sainik Farms, New Delhi-110062. PAN-AABCK8465F (RESPONDENT)
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Appellant by	Sh.P.D.Kanunjna, Sr. DR
Respondent by	None

Date of Hearing	10.03.2016
Date of Pronouncement	22.03.2016

ORDER

PER DIVA SINGH, JM

The present appeal has been filed by the revenue assailing the correctness of the order dated 24.09.2015 of CIT(A)- 5, Delhi pertaining to 2011 – 12 assessment year on the following grounds: –

1. *“That the order of the learned CIT(Appeals) is erroneous & contrary to facts & law.*
2. *That on the facts and in the circumstances of the case and in law, the learned CIT(Appeals) has erred in deleting the disallowance of Rs.14,51,952/- made by the AO u/s 14A of the Act, in contravention to the CBDT's circular No.5 of 2014 wherein it has been clarified that Rule 8D read with Section 14A of the Act provides for disallowance of expenditure even where tax payer in a particular year has not earned any exempt income.*
3. *That the appellant craves leave to add, alter or amend any ground(s) of the appeal raised above at the time of hearing.”*

2. The Ld. Sr. DR, Mr P.D.Kanunjna was heard. No one was present on behalf of the assessee. However, considering the fact that the amount at stake for the Revenue is much less than the tax effect of 10 lakh which position was not disputed by the Ld. Sr. DR it was considered appropriate to dismiss the

departmental appeal relying upon the latest circular of the CBDT circular No.21/2015 dated 10th December, 2015.

3. We have heard the submissions of the parties on this issue and perused the material on record. We find that the CBDT vide the aforesaid Circular dated 10.12.2015 has revised the monetary limit to Rs.10 lakh for filing the appeal by the department before Income Tax Appellate Tribunal. Para 3 of the aforesaid Circular has been made applicable vide para 10 retrospectively. Considering the settled legal precedent that the Board's instructions or directions issued to the Income Tax Authorities u/s 268A of the Income Tax Act, 1961 are binding on the authorities, we dismiss the departmental appeal considering the material available on record.

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

The order is pronounced in the open court on 22nd March, 2016.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER

Dated: 22/03/2016 *Amit Kumar*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI