

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI "G" BENCH,
NEW DELHI

BEFORE SHRI R.K. PANDA ACCOUNTANT MEMBER AND
SMT. BEENA A. PILLAI, JUDICIAL MEMBER

ITA No. 4179/DEL/2013
[Assessment Year: 2009-10]

The I.T.O Ward 2(2) Muzaffarnagar	Vs.	Shri Sandeep Agarwal 52/26, Krishna Vihar Muzaffarnagar PAN : ABMPA 7591 F
(Appellant)		(Respondent)

Assessee by: None
Revenue by: Shri Bedobani Choudhary, Sr. DR

Date of hearing : 12.04.2017
Date of pronouncement : 12.04.2017

ORDER

PER R.K. PANDA, ACCOUNTANT MEMBER:-

This appeal filed by the Revenue is directed against the order dated 31.05.2012 of the CIT(A), Muzaffarnagar relating to A.Y. 2009-10.

2. Despite service of notice, none appeared for and on behalf of the assessee. However, a perusal of the appeal filed by the Revenue as per grounds of appeal shows that the Revenue has challenged the order of the Id. CIT(A) in deleting the disallowance of Rs. 21,09,601/- made by the A.O

u/s 40(a)(ia) of the Income-tax Act, 1961. This apparently shows that the tax effect on the ground raised by the Revenue is below Rs. 10 lakhs. Therefore, in view of the Circular No. 21/2015 of CBDT dated 10th December 2015 we find that prima facie, the tax effect involved in this appeal by the Revenue is below Rs. 10.00 lakhs and, therefore, we deem it proper to dismiss the appeal particularly because the pending appeal is covered by Para 10 of the Circular.

3. 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 issue before ITAT on merits if the tax effect in those years is more than Rs.10 lakhs. With these directions we deem it proper to dismiss the appeal in the light of the Circular No. 21/2015 of CBDT dated 10th December 2015. Accordingly, without going into merits of the case, we dismiss the instant appeal filed by the Revenue as tax effect in this appeal is less than Rs.10 lakhs.

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

Order pronounced in the open court at the time of hearing itself i.e.
on 12.04.2017.

(BEENA PILLAI)
JUDICIAL MEMBER

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 12.04.2017

V. Lakshmi

Copy forwarded to:

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

ASSISTANT REGISTRAR

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Date of dispatch of Order.	