

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI J.S. REDDY, ACCOUNTANT MEMBER**

**ITA No. 5489/Del/2010
Assessment Year: 2006-07**

INCOME TAX OFFICER,
WARD 7(2), NEW DELHI

vs. M/s SAKSHI GRANITE PVT. LTD.
7/2, SARVAPRIYA VIHAR
NEW DELHI

(APPELLANT)

**(PAN: AABCS0734K)
(RESPONDENT)**

Appellant by : Smt. K.Y. Sherpa, Sr. DR
Respondent by : Sh. Alok Mittal, CA

**Date of Hearing : 06-05-2016
Date of Order : 06-05-2016**

ORDER

PER H.S. SIDHU, J.M.

This appeal by the Department is directed against the Order dated 17.9.2010 of Ld. CIT(A)-X, New Delhi pertaining to assessment year 2006-07 on the following grounds/additional grounds:-

- “1. *On the facts and circumstances of the case, the Ld. CIT(A) erred in law as well as on merits in admitting additional evidences in contravention to rule 46A of the I.T. Act, 1961.*
2. *On the facts and circumstances of the case, the Ld. CIT(A) erred in law as well as on merits in deleting the addition of Rs. 8,35,000/- made by AO as income from undisclosed sources as per section 68 of the I.T. Act, 1961.*
3. *The appellant craves to amend, modify, alter, add or forego any ground of appeal at any time before or during the hearing of this appeal.*

ADDITIONAL GROUNDS:-

- “1. *Ld. CIT(A) erred on fact and in law in deleting the addition to the extent of Rs. 14,16,762/-*

2. *Ld. CIT(A) erred in determining the proportionate share in undivided land at 11% instead of 30% determined by the AO.”*

2. 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 10th 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:

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

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.”

3. 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.

4. Keeping in view the CBDT Instruction No. 21/2015 dated 10th 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.

5. In the result, Appeal filed by the Revenue Stands dismissed.

Order pronounced in the Open Court on 06/05/2016.

Sd/-

(J.S. REDDY)
ACCOUNTANT MEMBER

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 06/05/2016

SR BHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR

