

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC-1', NEW DELHI**

Before Sh. N. K. Saini, Accountant Member

ITA No. 6466/Del/2014 : Asstt. Year : 2011-12

Asstt. Commissioner of Income tax, Central Circle-3, New Delhi	Vs	M/s Ganpati Sugar Ltd., D-143, Defence Colony, New Delhi-110024
(APPELLANT)		(RESPONDENT)

CO No. 179/Del/2015 : Asstt. Year : 2011-12

M/s Ganpati Sugar Ltd., UG-03, Ansal Majestic Tower, Plot No. 17, G Block, Commercial Complex, Vikas puri, New Delhi-110018	Vs	Asstt. Commissioner of Income tax, Central Circle-3, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACG4670K		

Assessee by : None

Revenue by : Sh. A. Sreenivasa Rao, Sr. DR

Date of Hearing : 30.06.2016	Date of Pronouncement : 30.06.2016
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ORDER

The appeal filed by the department and Cross Objection by the assessee are directed against the order dated 19.09.2014 of Id. CIT(A)-I, New Delhi.

2. During the course of hearing, the Id. D.R., although supported the order of the Assessing Officer, but could not controvert this fact that tax effect in this appeal is less than Rs.10,00,000/-.

3. After considering the submissions of the ld. D.R. and the material on record, it is noticed that Section 268A has been inserted by the Finance Act, 2008 with retrospective effect from 01/04/99. The said section 268 of the Act provides that the Board may issue instruction or directions to the other income-tax authorities fixing monetary limits for not filing the appeals before the Appellate Tribunal or the Courts, said instructions/directions are binding on the income tax authorities.

4. It is noticed that the CBDT has issued Circular No.21 of 2015 dated 10.12.2015, vide which it has revised the monetary limit to Rs.10,00,000/- for not filing the appeal before the Tribunal. The relevant portion of the said circular reads as under:

“.....
.....

3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

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

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.

.....

9. The monetary limits specified in para 3 above shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules. Further, filing of appeal in cases of Income Tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A of the IT Act, 1961, shall not be governed by the limits specified in para 3 above and decision to file appeal in such cases may be taken on merits of a particular 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.”

5. From Clause 10 of the above said circular it is clear that these instructions are applicable to the pending appeals also and as per clause 3, there is clear cut instruction to the department to withdraw or not to press the appeals filed before the ITAT wherein tax effect is less than

Rs.10,00,000/-. These instructions are operative retrospectively to the pending appeals.

6. Keeping in view the CBDT Circular No.21 of 2015 dated 10.12.2015 and also the provisions of Section 268A of Income Tax Act, 1961, we are of the view that the Revenue should not have filed the instant appeal before the Tribunal.

7. Since, the appeal of the department out of which the Cross Objection arose has been dismissed. Therefore, the Cross Objection of the assessee becomes infructuous and accordingly dismissed.

8. In the result, the appeal of the department and Cross Objection of the assessee are dismissed.

(Order Pronounced in the Court on 30/06/2016)

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 30/06/2016

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR