

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, D, मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "D", MUMBAI**

**श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं  
श्री अश्वनी तनेजा, लेखा सदस्य, के समक्ष**

**Before Shri Joginder Singh, Judicial Member, and  
Shri Ashwani Taneja, Accountant Member**

**ITA NO.4130/Mum/2013  
Assessment Year: 2009-10**

ACIT Cen 11(3) R.No.446, 4 <sup>th</sup> Floor, Aayakar Bhavan, Mumbai-400020 (Revenue)	<b>बनाम/ Vs.</b>	Ramakanta M. Panda, Assian Heart Institute, Bandra Kurla Complex, Mumbai-400053 (Respondent)
P.A. No.AAOPP2308N		

Revenue by	Shri B.S. Bist (DR)
Respondent by	None

सुनवाई की तारीख / <b>Date of Hearing :</b>	<b>16/06/2016</b>
<b>आदेश की तारीख /Date of Order:</b>	<b>21/06/2016</b>

**आदेश / O R D E R**

**Per Ashwani Taneja (Accountant Member):**

The present appeal has been filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals)-2, Mumbai {{in short 'CIT(A)'}, dated 13.03.2013 for the assessment year 2009-10, decided against the assessment

order passed by the Assessing Officer (in short 'AO') u/s 250(6) of the Act.

**2.** None appeared on behalf of the Assessee and by Shri B.S. Bist, Departmental Representative (DR) on behalf of the Revenue.

**3.** The main issue raised in this appeal is with regard to alleged failure of the assessee in deduction of tax at source while making the payment by the assessee and its consequent disallowance u/s 40(a)(ia).

**3.1.** It is noted by us that tax effect in this case is apparently less than Rs. 10,00,000/-.

**3.2.** We have gone through the aforesaid circular of the Board. It has been provided in the aforesaid circular that no appeal shall be filed by the Revenue if the tax effect involved in the appeal does not exceed a sum of Rs. 10 Lacs. It has further been provided that instructions contained therein shall apply retrospectively to pending appeals also. Relevant part of the circular is reproduced below:

*“10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunal. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed.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.”*

**3.3.** It is confirmed by the Ld. DR that tax effect in this case is less than the amount of Rs.10,00,000/-. As per law, circular of CBDT has binding effect on the income tax authorities.

**3.4.** In view of the above, we find that the appeal of the Revenue is not maintainable. Therefore, we dismiss the same.

**3.5.** However, with a view to follow principles of natural justice, we give liberty to the Revenue to file Miscellaneous Application u/s 254 in case tax effect is found to be more than Rs. 10,00,000/-. Further, our order shall have no bearing on the merits of the case.

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

Order was pronounced in the open court at the conclusion of hearing of this case.

Sd/-  
(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(Ashwani Taneja)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 21/06/2016

*Patel, P.S.नि.स.*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**

**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**