

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F', NEW DELHI
BEFORE SHRI J. S. REDDY, ACCOUNTANT MEMBER AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

I.T.A. No. 5440/Del/2011
(Assessment Year 2008-09)

ACIT, Circle 35(1),
New Delhi

Vs. Ruchika Sachdeva,
23,Vigyan Vihar,
New Delhi

GIR / PAN :BMVPS7091F

(Appellant)

(Respondent)

Appellant by : Smt. Kesang Y Sherpa, Sr. DR

Respondent by : Shri Salil Lakppr &
Shri C. S. Anand, ARs

Date of hearing: 31.12.2015

Date of Pronouncement: 08.01.2016

ORDER

PER KULDIP SINGH, JM:

The appellant (hereinafter referred to as 'the revenue') by filing the aforesaid appeal, sought to set aside the impugned order dated 28.09.2011 passed by Ld. CIT(A)-XXVII, New Delhi qua the Assessment Year 2008-09.

2. Perusal of the aforesaid appeal filed by the Revenue apparently show that the same is having low tax effect as per CBDT Circular No.21/2015 dated 10th December 2015 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.10,00,000/- and this factual position has been fairly conceded by the Ld. D.R. The Ld. A.R. contended that the appeal of the Revenue may be dismissed in the light of CBDT Circular (supra).

3. We have heard parties on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted 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 matters	Monetary Limit (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.

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 Pending appeals below the specified tax limits in para 3 above may be withdrawn / not pressed.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. "

4. The contention of Ld. Sr. D.R. that she needs some time to procure the report from the Assessing Officer to work out the tax effect, is not tenable because when apparently, the appeal in question is covered under CBDT Circular No.21/2015 dated 10th December 2015 (supra), the Revenue cannot import the facts within the knowledge of the Assessing Officer to further prolong the matter. However, in case any fact which is otherwise not on record, warrants the restoration of the present appeal, the

revenue is at liberty to approach the Tribunal under relevant provisions of law.

5. In view of the CBDT Circular No.21 dated 10.12.2015 having retrospective effect and what has been discussed above, we are of the considered view that the aforesaid appeal is not maintainable because of low tax effect i.e. less than Rs.10,00,000/- hence, the aforesaid appeals filed by the Revenue is hereby dismissed having been become infructuous.

Sd./-

Sd./-

(J. S. REDDY)
ACCOUNTANT MEMBER

(KULDIP SINGH)
JUDICIAL MEMBER

Date: 08.012016

Sp.

Copy forwarded to:-

1. The appellant
2. The respondent
3. The CIT
4. The CIT (A)-, New Delhi.
5. The DR, ITAT, Loknaya Bhawan, Khan Market, New Delhi.

True copy.

By Order
(ITAT, New Delhi)

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	7/1		Sr. PS/PS
2	Draft placed before author	7/1		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement			Sr. PS/PS
7	File sent to Bench Clerk			Sr. PS/PS
8	Date on which the file goes to Head Clerk			
9	Date on which file goes to A.R.			
10	Date of Dispatch of order			