

**आयकर अपीलीय अधिकरण, मुंबई**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES 'A' MUMBAI**

सर्व श्री राजेन्द्र,लेखा सदस्य एवं श्रीमती बीना पिल्लै, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI RAJENDRA, ACCOUNTANT MEMBER AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA NO.3142/MUM/2014  
Assessment Year 2009-10

The DCIT-24(1),  
C-13, R.No.503,  
Pratyaksh Kar Bhavan  
Bandra (E),Mumbai -51

(Appellant )

Shri Amit Tandon,  
1403/1404, D Waing, Royal  
Classic, New Link Road,  
Andheri (West),  
Mumbai 400 053  
PAN: ABZPT 3948C  
(Respondent)

Appellant by : Shri R.A.Dyani  
Respondent by : None

Date of hearing : 29/10/2015  
Date of pronouncement : 29/10/2015

**ORDER**

**PER BEENA PILLAI J.M:**

The present appeal has been filed by the Revenue against the order passed by Ld. CIT(A)-34, Mumbai vide order dated 28/02/2014, for assessment year 2009-10. The Revenue has raised the following grounds of appeal:-

*“1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance of Rs.9,77,520/- made by the Assessing Officer on account of ‘ sundry balances written off’ ignoring the fact that the said written off presupposes income offered in the earlier years and failure on the part of the assessee to substantiate its claim with any proof.*

*2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in holding the write of advance paid as revenue expenditure ignoring that the amount paid as advance is not allowable as revenue expenditure or bad debts.”*

2. The brief facts of the case as recorded by the Id.AO are as under.

The assessee had filed its return of income on 30/9/2009, declaring a total income of Rs.14,76,070/-. Subsequently, the return was revised and a total income of Rs.89,20,420/- was declared vide return of income dated 18/12/2010. The return was processed under section 143(1) of the Income Tax Act, 1961 (in short “the Act”) and the case was selected for scrutiny. During the assessment proceedings, the Assessing Officer made certain additions, to an extent to Rs.1,06,06,570/-. Aggrieved by the order of Assessing Officer, the assessee preferred an appeal before Ld. CIT(A).

3. Ld. CIT(A) gave partial relief to the assessee, and confirmed the addition in respect of certain amount, which has been written off by the assessee as sundry balances, amounting to Rs.9,77,520/-. Aggrieved by the order of Ld. CIT(A), the Revenue is in appeal before us.

4. At the outset, Ld. Departmental Representative submitted that the tax effect involved in the present appeal is less than Rs.4.00 lacs as per the working obtained from the Id.AO. As per the CBDT Instruction No.5 of 2014 dated 10/07/2014, the appeal is non-maintainable due to low tax effect.

5. We have considered the submissions of the Ld. Departmental Representative. There is no doubt that the tax effect in this case is Rs.3,42,132/-. As per CBDT Instruction No.5 of 2014 dated 10/7/2014, an appeal before the Tribunal can be filed where the tax effect exceeds the monetary limit of Rs.4.00 lacs.

6. Further, the Revenue has not been able to point out before us any circumstances, as laid down by the Hon'ble Supreme Court in the case of CIT Cent. III vs. Surya Herbal Ltd reported in (2011) 15 SCC 482, being applicable to this case which would lead to no-application of CBDT Instruction No.5 of 2014. Therefore, the appeal filed by the Revenue is dismissed on the issue of low tax effect involved.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on 29/10/2015

आदेश की घोषणा खुले न्यायालय में 29/10/2015 को की गई।

Sd/-

Sd/-

(राजेन्द्र, /RAJENDRA )

(बीना पिल्लै /BEENA PILLAI)

लेखा सदस्य /ACCOUNTANT MEMBER

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 29/10/2015

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
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

व.नि.स./Vm, Sr. PS