

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI
BEFORE SHRI N. K. SAINI, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
ITA NO. 5260/DEL/2013 (A.Y 2008-09)**

ACIT Central Circle-13 Room NO. 332, ARA Centre, Jhandewalan Extension New Delhi (APPELLANT)	vs	Raj Kumar Kedia (HUF) E-281, Greater Kailash Part-II New Delhi AAKHR2602D (RESPONDENT)
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Appellant by	Sh. Balwan Chauhan, CIT (DR)
Respondent by	Sh. Saurabh Goel, CA

Date of Hearing	17.02.2016
Date of Pronouncement	17.02.2016

ORDER

PER SUCHITRA KAMBLE, JM

This is an appeal by the department against the order dated 08/07/2013 of Id. CIT (A)-I, New Delhi.

2. During the course of hearing, the Learned counsel for the assessee at the very outset stated that the tax effect in this appeal is less than Rs.10,00,000/-, therefore, the department ought not to have filed this appeal in view of the circular issued by the CBDT and the provisions contained

in Section 268A of the Income Tax Act, 1961 (hereinafter to be referred as the Act).

3. On the other hand, 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/-.

4. After considering the submissions of both the parties and the material available 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.

5. 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.”

6. 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.

7. 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.

8. In view of the above, without going into merits of the case, we dismiss the appeal filed by the department.

9. In the result, appeal of the department is dismissed.

(Order Pronounced in the Court on 17/02/2016)

Sd/-

(N. K. SAINI)
ACCOUNTANT MEMBER

Dated: 17/02/2016

R. Naheed

Copy forwarded to:

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

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

		Date	
1.	Draft dictated on	17.02.2016	PS
2.	Draft placed before author	17.02.2016	PS
3.	Draft proposed & placed before the second member	.01.2016	JM/AM
4.	Draft discussed/approved by Second Member.	.02.2016	JM/AM
5.	Approved Draft comes to the Sr.PS/PS	.02.2016	PS/PS
6.	Kept for pronouncement on	.02.2016	PS
7.	File sent to the Bench Clerk	18.02.2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		