

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No. 53/Del/2014
Assessment Year: 2007-08**

DCIT, CC-03,
ROOM NO. 355, 3RD FLOOR,
JHANDEWALAN EXTENSION,
NEW DELHI – 110 055

VS. M/S SUPERB DEVELOPERS P LTD
WZ-183, F.F. LANE NO. 4,
LAJWANTI GARDEN,
NEW DELHI

(APPELLANT)

(PAN:AAICS4437L)
(RESPONDENT)

AND

**C.O. NO. 192/Del/2015
Assessment Year: 2007-08**

M/S SUPERB DEVELOPERS P LTD Vs. ACIT, CC-3,
WZ-183, F.F., LANE NO. 4, NEW DELHI
LAJWANTI GARDEN,
NEW DELHI

(PAN: AAICS4437L)

(APPELLANT)

(RESPONDENT)

Department by : SH. S.S. RANA, CIT(DR)
Assessee by : SH. SURESH K. GUPTA, ADV.

ORDER

PER H.S. SIDHU, J.M.

The appeal has been filed by the Department and the Cross Objection filed by the Assessee against the Order of the Ld. CIT(A)-I, New Delhi dated 25.10.2013 relating to assessment year 2007-08.

2. The Revenue has raised the following grounds in its Appeal No. 53/Del/2014:-

“1. The CIT(A) erred in law and on facts in deleting the addition of Rs. 12,00,000/- u/s. 68 of the Act w.r.t. procurement of accommodation entries through share application money from non-descript companies.

2. The CIT(A) erred in law and on facts in deleting an addition of Rs. 6,000/- made by the AO w.r.t. commission paid @5% for procurement of accommodation entries through share application money from non-descript companies.

3. The CIT(A) erred in admitting additional evidence under Rule 46A.

4. (a) The order of the CIT(A) is erroneous and not tenable in law and on facts.

(b) The appellant craves leave to add, alter or amend any / all the grounds of appeal before or during the course of the hearing of the appeal.

3. The assessee has raised the following grounds in its Cross Objection:-

"1. The Ld. CIT(A) has erred in law and on facts in not quashing the addition of Rs. 12,06,000/- u/s. 68 of the I.T. Act on the ground that the above additions were not based on any incriminating material found in the course of search on the respondent assessee when the original assessment proceedings in the case had not abated as per proviso to section 153A(1) of the I.T. Act. That the Assessee is a public limited company filing its return of income regularly."

4. We have heard both the parties and perused the material on record. From the above, we find that the tax effect in the Revenue's Appeal is less than Rs.10,00,000/-, therefore, the Department's Appeal is not maintainable, in view of the Circular No. 21/2015 dated 10th December, 2015 issued vide F.No. 279/Misc. 142/2007-ITJ (Pt.) by the CBDT. For the sake of convenience, the relevant para nos. 3 & 10 of the aforesaid CBDT's Circular are reproduced 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 (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.

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. It is not in dispute that the Board's instruction or directions issued to the income-tax authorities are binding on those authorities, therefore, the Department should have withdrawn/ not pressed the present Appeal, in view of the aforesaid instructions since the tax effect in the

instant Appeal is less than the amount of Rs. 10 lacs, prescribed in the above said CBDT's Instructions.

6. Keeping in view the CBDT Instruction No. 21/2015 dated 10th December, 2015, we are of the view that the Revenue should have withdrawn/ not pressed the instant appeal before the Tribunal. We are also of the view that the said Instructions are applicable for the pending appeals and appeals to be filed henceforth in Tribunal. Accordingly, the Revenue's Appeal is dismissed.

7. As regards the Assessee's Cross Objection is concerned, since we have already dismissed the Revenue's Appeal on account of low tax effect, hence the Assessee's Cross Objection has become infructuous and the same is dismissed as such.

8. In the result, Appeal filed by the Revenue as well as Cross Objection filed by the Assessee Stand dismissed.

Order pronounced in the Open Court on 19/04/2017.

SD/-

(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

SD/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 19/04/2017

SR BHATNAGAR

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

TRUE COPY

By Order,

ASSISTANT REGISTRAR

