

the pending appeals below the specified tax limit of Rs.10 lakh may be withdrawn/not pressed.

4. Learned CIT-DR, Shri Ravi Jain, who appeared at the time of hearing before us stated that he needs some time to call for the report from the Assessing Officer as well as instructions from Administrative CIT for withdrawing the appeal, because the appeal was filed with the approval of Administrative CIT. Learned CIT(DR) further pointed out that in paragraph 7 of the said Circular, it has been clarified by the CBDT that withdrawal of the appeal by the Revenue on account of low tax effect should not be considered as a precedent in the subsequent years of the acceptance of issues involved in this appeal and, therefore, if in the subsequent year similar issue arises before the ITAT where the appeal is above the tax limit, as prescribed in this Circular, the same should be decided on merits.

5. After considering the submissions of learned DR, the facts of the case and the Circular of the CBDT, we are of the opinion that there is no necessity for adjourning the appeal and calling the report from the Assessing Officer because, apparently, the tax effect involved in the present appeal of the Revenue is below 10 lakhs. However, we may clarify that if on receipt of this order, the Assessing Officer finds that the tax effect is above Rs.10 lacs or in any other manner, the circular is not applicable in view of exceptions culled out in the circular, he will be at liberty to file miscellaneous application for recalling of this order which the Tribunal will consider in accordance with law. We also agree with the contention of the learned CIT(DR) that this order would not be considered as an acceptance by the Revenue on the issue involved in this appeal and will not be an estoppel for the Revenue to take up the issue involved in this appeal before the ITAT on merits if the tax effect in those years is more than 10 lakhs.

6. In view of above, keeping in view the above Circular and the provisions of section 268A of the Income-tax Act, 1961 and without going into merits

of the cases, we dismiss the instant appeal filed by the Revenue as tax effect in this appeal is less than Rs.10.00 lacs.

Order pronouncement in open court on 29/12/2015.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 29/12/2015.

MP

Copy of order to:

1. Assessee
2. AO
3. CIT
4. CIT(A)
5. DR, ITAT, New Delhi.

Sd/-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER