

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'D' : NEW DELHI)**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.3828/Del./2013  
(ASSESSMENT YEAR : 2007-08)**

ACIT, Circle 39 (1), vs. Shri Umesh Gupta,  
New Delhi. W – 33, Greater Kailash Part – I,  
New Delhi – 110 048.

**(PAN : AAEPG4743J)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Anil Gupta, CA  
REVENUE BY : Ms. Sulekha Verma, CIT DR

Date of Hearing : 27.06.2016  
Date of Order : 27.06.2016

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

The Appellant, Assistant Commissioner of Income-tax, Circle 39 (1), New Delhi (hereinafter referred to as 'the revenue') by filing the present appeal sought to set aside the impugned order dated 04.03.2013 passed by the Commissioner of Income-tax (Appeals)-XXVIII, New Delhi qua the assessment year 2007-08.

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 10<sup>th</sup> 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn / not pressed.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 10<sup>th</sup> 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 the face of the fact that since there is substantive addition of Rs.20 lakhs only this case falls under the category of low tax effect cases as per CBDT Circular No.21 dated 10.12.2015 having retrospective effect and consequently, we are of the considered view that the aforesaid appeal is not maintainable due to low tax effect i.e. less than Rs.10,00,000/- hence, the same is hereby dismissed having been become infructuous.

**Order pronounced in open court on this 27<sup>th</sup> day of June, 2016.**

**Sd/-  
(N.K. SAINI)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 27<sup>th</sup> day of June, 2016  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-XXVIII, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.