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IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH `H' : NEW DELHI)
BEFORE SHRI U.B.S. BEDI, JUDICIAL MEMBER AND
SHRI K.G. BANSAL ACCOUNTANT MEMBER

ITA No.2022/Del./2011
(Assessment Year : 1998-99)

JCIT, Circle 17(1), **Vs.** **M/s Video Electronics Pvt. Ltd.,**
New Delhi. **E-45, Okhla Industrial Area, Phase II,**
New Delhi.
(PAN/GIR No.AAACV0886C)

(Appellant) **(Respondent)**

Assessee by : Shri Gurjeet Singh, CA
Revenue by : Smt. Reena S. Puri, CIT(DR)

ORDER

PER U.B.S. Bedi, J.M.

This appeal of the Revenue is filed against the order of Ld. CIT(A)-XX, New Delhi dated 01.12.2010 relevant to asstt. year 1998-99 by not confirming the order passed by the Assessing Officer u/s 154 and by allowing the claim of the assessee u/s 32AB of the I.T. Act, 1961.

2. The tax effect in this case is found to be less than Rs.3 lac, the limit prescribed under Instruction No. 3/2011 dated 09.02.2011 and when Ld.CIT(DR) was apprised of this fact, she could not controvert the same and she was also unable to show that the case of the department falls in any of the exceptions carved out in the said instructions and Ld. Counsel for the assessee Shri Gurjeet Singh, Chartered Accountant submitted a copy of income-tax computation form in respect of assessee, wherein the taxable income has been shown at Rs.8,30,224/- and pleaded for dismissal of the appeal on low tax effect as same is less than the limit prescribed.

3. We have heard both the sides and considered the material on record and find that the tax effect in this case is undisputedly less than the limit prescribed by Instruction No.

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3/2011 and department has not been able to place material to show that its case falls in the exceptions provided in the said instructions of CBDT and issue is also found to be covered by various ITAT decisions including that of ITAT Delhi Bench in case of Shri Vikram Bhatnagar ITA No. 60/D/2002, order dated 10.3.2006.

4. Further Hon'ble Bombay High Court in the case of Pithwa Engg. Works (276 ITR 519), have observed as under :-

> "One fails to understand how the Revenue can contend that so far as new cases are concerned, the circular issued by the Board is binding on them and in compliance with the said instructions, they do not file references if the tax effect is less than Rs. 2 lakhs. But the same approach is not adopted with respect to the old referred cases even if the tax effect is less than Rs. 2 lakh. In our view, there is no logic behind this approach.
>
> This court can very well take judicial notice of the fact that by passage of time money value has gone down, the cost of litigation expenses has gone up, the assessees on the file of the Departments have increased; consequently, the burden on the department also increased to a tremendous extent. The corridors of the superior courts are choked with huge pendency of cases. In this view of the matter, the Board has rightly taken a decision not to file references if the tax effect is less than Rs. 2 lakhs. The same policy for old matters needs to be adopted by the Department. In our view, the Board's circular dated March, 27, 2000 is very much applicable even to the old references which are still undecided. The Department is not justified in proceeding with the old references wherein the tax impact is minimal. Thus, there is no justification to proceed with decades old references having negligible tax effect."

5. It is also seen that recently the Hon'ble jurisdictional High Court vide their order dated 1.8.2007 in ITA No. 683/2007 in the case of CIT v. Manish Bhambri has upheld the order of Tribunal vide which the appeal filed by the revenue was refused to be entertained because of low tax effect. The said order of Hon'ble jurisdictional High Court is reproduced below for the sake of convenience :-

> "The Revenue is aggrieved by an order dated 8th August, 2006 passed by the Income Tax Appellate Tribunal, Delhi Bench 'D' in IT(SS) No. 513/Del/2003 relevant for the block period 1st April, 1990 to 14th February, 2001.

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The question that arose before the Assessing Officer was with regard to certain deposits in the bank account of the Assessee and since the amounts were not explained, tax was levied.

In appeal, the Commissioner of Income Tax (Appeals) accepted the view canvassed by the Assessee and held that the explanation given by him was acceptable and, in any case, the Assessee cannot be expected to recollect each and every entry made in the bank.

It may be mentioned that the amount in dispute is Rs. 30,000/- for the assessment year 1999-2000, and Rs. 83,000/- for the assessment year 2001-2002. It may also be mentioned that for the Assessment year 1999-2000, the Assessing Officer has already accepted the explanation with regard to a gift of Rs. 60,000/-

Against the order of the Commissioner of Income Tax (Appeals), an appeal was filed before the Income Tax Appellate Tribunal. The Tribunal found that in view of Instructions issued by the CBDT where the tax effect is less than Re. 1 lakh. The Department should not file an appeal before the Tribunal. In the present case the tax effect is less than Re. 1 lakh. Under the circumstances, the Tribunal did not entertain the appeal.

The Revenue, feeling aggrieved by the decision of the Tribunal, has come up before us under Section 260A of the Income Tax Act, 1961. It is contended by learned counsel for the Revenue that the Tribunal is a fact finding authority and should have adjudicated the matter on merits. We are of the view that the issue raised by the Revenue is not at all substantial and the amount in dispute is quite insignificant, considering that the case is one of a block assessment. There is no justification for the Income Tax Department to go on burdening the Tribunal, the Court with every case right up to the end. Apart from burdening the Tribunal and Courts, it also causes avoidable expenses to the Assessee. It is common knowledge that the Assessee has to pay for legal fees and merely because the Income Tax Department has got unlimited resources, there is no justification that every case should be dragged on.

Under the circumstances, we are of the view that the Tribunal was justified in refusing to entertain the appeal because of the insignificant amount involved in the matter. No substantial question of law arises.

We, therefore, dismiss this appeal."

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6. Since, tax effect is less than the limit prescribed, so in view of the instructions and precedents of courts as cited above including that of Delhi High Court, the appeal is held to be not maintainable, as such, is dismissed.

7. As a result, the appeal of the department stands dismissed.

Order pronounced soon after the conclusion of hearing on 15.03.2012.

Sd/-	Sd/-
(K.G. BANSAL)	**(U.B.S. BEDI)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated : March 15,2012
SKB
Copy of the order forwarded to:-

1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(A)-XX, New Delhi.**
5. **DR**

By Order
Deputy Registrar, ITAT