

**File No 279/Misc/142/2007-ITJ
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes,**

Date : 27 th August, 2015
North Block, New Delhi

To
All Pr. Chief Commissioners of Income-tax and
All Directors General of Income- tax

Sub : Filing Review Petition/Miscellaneous Application before High Court /ITAT- reg.

Reference is invited to Board's Instruction No. 3/2011 dated 09.02.2011 wherein monetary limits and other conditions for filing departmental appeals (in income tax matters) before Appellate Tribunal, High Courts and Supreme Court were specified. It was also clarified in para 11 of the said Instruction that the monetary limit laid down shall not govern cases where appeals were filed prior to 09.02.2011.

2. In past, several High Courts/ITATs have dismissed departmental appeals solely on the ground of monetary limit, i.e applying the said Instruction retrospectively.

3. Recently, Hon'ble Supreme Court of India in the case of **CIT-VIII, Delhi Vs. Suman Dhamija** vide order dated 01.07.2015 in our appeal Nos 4919-4920 of 2015 has set-aside the order of Delhi High Court. The relevant para of the judgment is as under :

"The appeals and review petitions preferred by the appellants before the High Courts, were disposed of on the basis of the Instructions issued by the Central Board of Direct Taxes dated 09.02.2011. It is not a matter of dispute, that all the appeals were preferred prior to 2011, whereas, the Instructions dated 09.02.2011 clearly indicate in paragraph 11 thereof, that they shall not govern cases which have been filed before 2011, and that the same will govern only such cases which are filed after the issuance of the aforesaid Instruction dated 09.02.2011.

In view of the above, the instant appeals are allowed, the impugned orders passed by the High Court dated 07.04.2011,28.02.2011, 26.03.2012 and 31.05.2012 are hereby set aside. The matters are remitted back to the High Court for re-adjudication of the appeals on merits, in accordance with law."

4. Considering the above Order, following immediate action is required on the part of all Pr.CCsIT/DGsIT:-

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

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(a) To identify all the cases in their jurisdiction, where jurisdictional High Courts/ITATs have dismissed departmental appeals after applying the Instruction governing monetary limit retrospectively and without adjudicating the issue on merit.

(b) In identified appropriate cases, Review Petitions/Miscellaneous applications may immediately be moved in consultation with Sr. Standing/Standing Counsels.

(c) All Sr. Standing Counsels/Standing Counsels be requested to bring the impugned judgment to the notice of High Court/ITAT, in appropriate cases, so that in pending cases/appeals, the ratio and intent of the judgement may be applied.

5. The order dated 01.07.2015 is hosted on the NJRS website.

(S.K. Ray)

Member (A&J), CBDT
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