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This special email service from Monday to Friday, part of subscription package, is aimed at keeping you informed about tax and fiscal matters. It contains news, legislative changes, case-law, in-depth articles and analyses covering all areas of taxes at domestic and international level. On every Saturday evening, we email weekly compilation of the entire material. Every month, **Taxation** in printed form, is sent through post and digital version of *Tax Review International* is made available for download at www.huzaimaikram.com.

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Kind regards

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United Kingdom

UK to leave EU single market, says May

Theresa May ruled out the possibility of the UK remaining part of the EU Single Market, in a speech that gave more detail on her Brexit strategy.

In outlining plans for Britain to secure full control of its affairs, including on legal matters and immigration, she said that this “cannot mean membership of the Single Market.”

May said that she would instead seek to gain “the greatest possible access” to the European market “through a new, comprehensive, bold, and ambitious free trade agreement.”

“That agreement may take in elements of current single market arrangements in certain areas – on the export of cars and lorries for example, or the freedom to provide financial services across national borders – as it makes no sense to start again from scratch when Britain and the remaining member states have adhered to the same rules for so many years,” she said.

She said a “punitive” deal would be “an act of calamitous self-harm” for the EU.

May said while she wants the UK to remain part of the customs union, as an “associate member,” the UK would seek concessions to enable it to engage with other territories towards its own free trade agreements and not be bound by the Common External Tariff.

She said: “Countries including China, Brazil, and the Gulf states have already expressed their interest in striking trade deals with us. We have started discussions on future trade ties with countries like Australia, New Zealand, and India. And President-Elect Trump has said Britain is not ‘at the back of the queue’ for a trade deal with the United States, the world’s biggest economy, but front of the line.”

“I know my emphasis on striking trade agreements with countries outside Europe has led to questions about whether Britain seeks to remain a member of the EU’s Customs Union. And it is true that full Customs Union membership prevents us from negotiating our own comprehensive trade deals. Now, I want Britain to be able to negotiate its own trade agreements. But I also want tariff-free trade with Europe and cross-border trade there to be as frictionless as possible.” – *Courtesy tax-news.com*

Macau**Macau hints at gaming tax reform**

Following representations from the gaming industry, Macau's Director of the Gaming Inspection and Coordination Bureau, Paulo Martins Chan, has disclosed the Government is open to reviewing tax on gaming.

Under the specific taxation regime regarding their income from gaming activities, gaming concessionaires are currently subject to a 35 percent tax, calculated on their gross gaming revenue (all revenue derived from casino or gaming areas), and an additional four percent in levies for a range of educational and development programs. On average, these taxes account for more than 75 percent of Macau's total annual revenue.

Some stakeholders have suggested that the specific tax should be reduced, so as to remain competitive with other Asian countries, where lower tax regimes are being introduced to attract gamblers, while others recommend a tax differential between high-stakes (so-called VIP) gamblers and the mass market.

Chan said that the Government does not, as yet, have any particular plans to change the sector's tax rates, but would consult widely. He added that, in any case, there is plenty of time to reach a decision before the present casino licenses are due for renewal between 2020 and 2022. – *Courtesy tax-news.com*

Ireland**Irish firms respond to hard brexit announcement**

Irish business association Ibec has warned that a UK departure from the European Single Market and customs union could seriously disrupt trade between Northern Ireland and the Republic.

Responding to UK Prime Minister Theresa May's speech on a 12-point Brexit plan, Ibec said it was "concerned at the increasingly definitive and hard-line position of the UK Government."

Ibec CEO Danny McCoy commented: "The possibility of the UK leaving both the Single Market and the customs union raises fundamental questions about Ireland's future trading relations with the UK."

He cautioned that were the UK to return to World Trade Organization rules, Irish exporters would be hit hard, and the UK and Ireland would be set "on very different economic trajectories."

McCoy called on the UK Government to provide further details of “how the serious challenges presented by a hard Brexit might be addressed, including the impact on cross-border trade on the island of Ireland.”

May said that the UK Government’s objectives “include a proposed free trade agreement between Britain and the European Union, and explicitly rule out membership of the EU’s single market.” May added that she does not want the UK to be part of the Common Commercial Policy or to be bound by the Common External Tariff, and that the UK “must reach a completely new customs agreement.”

May did nevertheless stress that she wants “tariff-free trade with Europe and cross-border trade there to be as frictionless as possible.”

McCoy described May’s strategy as “an aggressive move by the UK, showing little regard for our trading relationship and for relations with other EU member states.” He noted the UK Government’s recent hints that it could slash corporation tax and cut regulation post-Brexit and said that the UK is likely to pose a competitive threat.

“A comprehensive immediate domestic response package is needed to safeguard Irish jobs and enterprises. Ireland must also play a central and constructive role in Brexit negotiations, and ensure our interests are forcefully represented,” McCoy argued. – *Courtesy tax-news.com*

Hong Kong

Stamp duty hike cooled Hong Kong property market

At a media session on January 16, Hong Kong’s Secretary for Financial Services and the Treasury, K C Chan, said that the further stamp duty increase introduced in November last year has achieved its objective of cooling the city’

“We think the latest round of stamp duty increase has really introduced a period of cooling in the market,” he confirmed. “At this point in time, we believe that the latest round of stamp duty has done the job as we intended.”

Chargeable on transactions for residential property signed on or after November 5, 2016, a new flat rate of 15 percent was substituted for the 8.5 percent ad valorem stamp duty. It was then

stated that the stamp duty hike was intended “to address the overheated residential property market and to guard against a further increase in the risks of a housing bubble” in Hong Kong. – *Courtesy tax-news.com*

Egypt

Egypt confirms VAT hike this year

The Government of Egypt has confirmed a plan to increase the rate of value-added tax later this year under a series of revenue-raising measures.

Finance Minister Amr El-Garhy announced earlier this week that the VAT rate would increase by one percent to 14 percent in July 2017 as the Government seeks additional revenue to cover a large budget deficit. Previously the Government had indicated the rate would rise from October 1, 2017.

The VAT replaced the 10 percent goods and services tax on September 8, 2016, under a program with the International Monetary Fund that included a lending facility worth USD12bn.

The VAT increase forms part of a plan to boost tax revenues and lift Egypt’s tax-to-gross domestic product level to 15 percent. Other measures include a planned overhaul of the customs system and income tax increases. – *Courtesy tax-news.com*

Ireland

Irish economy vulnerable to US tax changes, Brexit

A lower corporate tax rate and additional trade disputes in the US and the UK leaving the European Union will impact Irish economic growth in 2017, according to a report from financial services provider Merrion Capital.

In its latest Irish Quarterly Economic Outlook, Merrion said that US President Donald Trump’s planned tax cuts and public spending measures could “fire up the American economy, which in turn should be positive for the Irish economy.” However, Merrion did warn that “the possibility of lower US corporate tax rates and talk of trade tariffs being imposed by the Trump Administration could potentially outweigh any positives.”

Merrion added that it is possible to only speculate as to how the UK’s withdrawal from the EU will impact Ireland in the coming

months and years. It noted that 30 percent of all Irish employment is from sectors that are heavily reliant on UK exports. It expects SMEs, particularly in the agri-food and tourism sectors, to be harder hit than larger companies by the introduction of any tariffs or barriers to trade.

According to Merrion, the Irish economy “appears to be holding up very well, even though export growth has slowed.” It does nevertheless expect Brexit worries to intensify in 2017, leading to lower overall GDP growth this year. It anticipates GDP growth to fall below four percent in 2017.

Merrion warned the Government against bowing to pressure to increase public sector pay, “which, if granted, will have to be taken out of money that could have been spent on crucial services.” In turn, it cautioned, the Government would have to raise taxes, which would damage the economy.

“The last thing the Irish economy needs now against the uncertain Brexit backdrop and the Trump Presidency is to become uncompetitive again,” Merrion said. – *Courtesy tax-news.com*

United States

Tax foundation studies US pass-through tax reform

The Tax Foundation (TF) has issued a paper saying that “there is a strong case to be made for keeping the current system of taxing pass-through businesses” in the United States.

Pass-through entities, such as partnerships and S corporations, represent over 90 percent of businesses in the United States, and are currently taxed within the individual income tax code. It has been suggested that, within a future US tax reform framework, a cut in the US corporate tax rate should be extended to all businesses, including pass-through businesses.

TF noted that, although they are not subject to corporate income tax, pass-through entities can still face a substantial tax burden from federal, state, and local taxes. In most US states, it added, the top marginal tax rate on pass-through business income exceeds 47 percent.

However, it also pointed out that “proposals to create a new, lower rate on pass-through businesses would also raise several concerns. Lawmakers would have to justify why income from pass-through businesses should be subject to a lower tax rate than income from wages and salaries.”

In addition, “taxing pass-through business income at a lower rate would make the US tax code less neutral, potentially leading individuals to invest in pass-through businesses based on tax considerations, rather than the economic merits.”

It could also, TF added, “create practical difficulties for tax administration. Because such a policy creates strong incentives to categorize as much income as possible as pass-through business income, it would have the potential to lead to substantial tax avoidance unless accompanied by strong anti-abuse rules.”

TF concluded that “lawmakers should keep in mind that the current system of taxing pass-through businesses is designed well, and they should be cautious about making fundamental changes to it.” – *Courtesy tax-news.com*

US firms start social media campaign for tax cut

The businesses and associations that make up the RATE (Reforming America’s Taxes Equitably) Coalition have begun a new “Real Tax Reform Starts With the Rate” social media campaign.

Made up of 33 American companies and associations representing over 30m employees in all the US states, the RATE Coalition was established to push the principle that tax reform should begin with a substantial cut in the US headline corporate tax rate.

With current talk on tax reform being concentrated on border adjustment taxation and import tariffs, its new ads tries to focus attention on “setting the corporate tax rate to a globally competitive level and keeping American companies in America.” They point out that, at 35 percent, the US corporate tax rate “is the highest in the industrialized world and burdens economic growth, job creation, and wages.”

The campaign includes billboard ads at Washington’s National Airport, and a 60-second digital spot. – *Courtesy tax-news.com*

European Union

EFTA issues state aid guidance on tax rulings

The European Free Trade Association Surveillance Authority (EFTA Surv) has issued guidance designed to help public authorities and companies identify when public support measures can be granted free of state aid, including with regards to tax legislation and administrative rulings.

EFTA Surv is the equivalent of the European Commission for the EFTA member states, Liechtenstein, Norway, Iceland, and Switzerland.

The guidelines clarify the elements of state aid, such as the notion of economic activity, the origin of public funding, the granting of an advantage, the selective nature of the advantage, and the effects on competition and trade between European Economic Area (EEA) states.

According to EFTA Surv, in the area of taxation, public authorities are free to adopt tax measures concerning economic policy, as long as such legislation does not entail incompatible state aid, nor does it discriminate between comparable operators.

Significantly, the guidelines emphasize that administrative tax rulings between tax authorities and taxpayers must “respect the state aid rules,” including in the area of transfer pricing.

“Where a tax ruling endorses a result that does not reflect in a reliable manner what would result from a normal application of the ordinary tax system, that ruling may confer a selective advantage upon the addressee, in so far as that selective treatment results in a lowering of that addressee’s tax liability in the EEA State as compared to companies in a similar factual and legal situation,” state the guidelines.

Referencing decisions by the European Court of Justice, the guidelines go on to state that intra-group transactions not undertaken at arm’s length can be considered illegal state aid, “by virtue of the fact that its tax liability under the ordinary tax system is reduced as compared to independent companies which rely on their actually recorded profit to determine their taxable base.”

“Accordingly, a tax ruling which endorses a transfer pricing methodology for determining a corporate group entity’s taxable profit that does not result in a reliable approximation of a market-based outcome in line with the arm’s length principle confers a selective advantage upon its recipient,” say the guidelines. –

Courtesy tax-news.com

World

Use taxes to redistribute wealth, urges Oxfam report

Governments across the world should make their tax systems “fairer” by tackling tax avoidance and hiking taxes on the wealthy, according to a report by Oxfam.

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The charity claimed that eight men now own the same wealth as the poorest half of the world. It also pointed to research by economist Thomas Piketty showing that, over the last 30 years, the incomes of the bottom half of income distribution have remained flat, while the incomes of the top one percent have grown 300 percent.

The paper calls for governments to cater for the needs of all of their citizens, rather than the wealthy minority, and for women to be empowered to play a greater role in the global economy.

“We must end the era of tax havens once and for all,” Oxfam said. “Countries must cooperate, on an equal basis, to build a new global consensus and a virtuous cycle to ensure corporations and rich people pay fair taxes, the environment is protected, and workers are paid well.”

Mark Littlewood, the Director General of the Institute of Economic Affairs in the UK, said that the report “demonizes capitalism” and fails to note “the fact that free markets have helped over 100 million people rise out of poverty in the last year alone.”

“Their claim that eight people own the same wealth as half the world is as spurious as their methodology – adding assets and subtracting wealth to make ‘net wealth’ – implies that some of the ‘poorest’ in the world are those with high debts.”

“It is misleading at best to label the average university graduate who has accumulated GBP50,000 (USD61,500) of debt among the world’s poorest, without any consideration of their future earning potential,” he noted.

“Aggregating net wealth figures is largely meaningless headline fodder. Unfortunately there are some corrupt countries where wealth is accumulated at the expense of the poor but this is a case for tackling big government, not bashing free markets.” – *Courtesy tax-news.com*

United Kingdom

UK commits to improving tax industry, taxpayer engagement

Financial Secretary to the Treasury Jane Ellison has said she aims to increase transparency surrounding HM Revenue and Customs’s performance, saying its customer service “hasn’t always been good enough.”

“Both the Government and HMRC know that it hasn’t always been good enough” when it comes to providing excellent customer service, she said. “But that makes us all the more determined to set our sights high and step up our efforts to deliver a service that is improving all the time.”

Her comments came at the launch of The Better Budgets report, prepared by the Chartered Institute of Taxation (CIOT), the Institute for Fiscal Studies (IFS), and the Institute for Government (IfG).

“I’m ambitious about increasing the transparency around HMRC’s performance in the future,” she said.

In recent weeks, HMRC’s digitization plan, Making Tax Digital, have been criticized by politicians and tax professionals. Meanwhile, the National Audit Office recently released its report on the tax agency’s failed contract with private sector contractor Concentrix, which was terminated early after some vulnerable claimants who were eligible for tax credits had them terminated and later reinstated.

She said that the Government would look to involve the tax industry more in decision- and policy-making, as proposed in the report, stating: “This is a team effort and we can improve our tax system enormously by drawing on the knowledge people have across the tax community from practitioners to parliamentarians, academics, businesses, and representative groups... and I should add to that list the Office for Tax Simplification too.” – *Courtesy tax-news.com*

2017 TRI 40 (Trib. Ind.)

INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCH, JAIPUR

Kul Bharat, Judicial Member and
Vikram Singh Yadav, Accountant Member

FACTS/HELD

S. 143(3): An addition towards income cannot be made merely on the basis of the statement of a third party that an amount has been paid to the assessee in the absence of conclusive evidence

1. The AO made the addition on the basis of the statement of the seller of the land, who in his statement before the DDIT (Inv.) has stated that the sale consideration was at Rs. 2,10,000/- per bigha and he had received total sale consideration of Rs. 35,00,000/-. The Counsel has not refuted the statement. However, he submitted that the statement was not bonafide but Shri Hanuman Yadav was black mailing the assessee. He submitted that interestingly the Revenue has accepted the sale consideration of the nearby vicinity. The CIT (A) affirmed the view of the AO in this respect. Now the issue which requires our consideration is whether the addition can be sustained solely on the basis of the statement of Shri Hanuman Yadav, when there is no material placed on record that Shri Hanuman Yadav has made any claim against the assessee in any court of law seeking cancellation of sale deed or filing a recovery suit. The Coordinate Bench of the Tribunal after following the ratio laid down by Hon'ble Supreme Court under the similar circumstances in *Union of India vs. T. R. Verma* 1957 SC 882 and *Kishan Chand Chellaram vs. CIT*, 125 ITR 713 (SC) has held in the case of *Ghanshyam Das Agarwal vs. ITO* in ITA No. 1161/JP/2010 that in the absence of any conclusive evidence the document could not have been disbelieved. The D/R could not point out any binding precedent wherein it has been held that the oral statement would over ride the documentary evidence. Therefore, respectfully following the decision of the Coordinate Bench in the case of *Ghanshyam Das Agarwal vs. ITO* in ITA No. 1161/JP/2010, we are of the view that the AO was not justified to make addition solely on

the basis of the statement of Shri Hanuman Yadav when there was a registered sale deed and more particularly when the maker of statement has not challenged the sale deed before any court of law. It is also not placed on record whether the sale deed was executed under coercion. Therefore, considering the totality of facts of the present case, we hereby direct the AO to delete the addition.

Order accordingly.

ITA Nos. 467/JP/2011 (Assessment Year : 2007-08) & ITA No. 519/JP/2011 (Assessment Year : 2007-08).

Heard on: 15th November, 2016.

Decided on: 25th November, 2016.

Present at hearing: Rajeev Sogani (CA), for Assessee. Ranjan Kumar (CIT), for Revenue.

JUDGMENT

Per Kul Bharat:– (Judicial Member)

These two cross appeals by the assessee and the revenue are directed against the order of ld. CIT (A), Central, Jaipur dated 16.03.2011 pertaining to assessment year 2007-08. Both the appeals are taken up together and are being disposed off by a consolidated order, for the sake of convenience.

2. First, we take up assessee's appeal in ITA No. 467/JP/2011. The assessee has raised the following grounds of appeal:–

1. On the facts and in the circumstances of the appellant's case, the ld. CIT (A) should have deleted the addition of Rs. 30,92,000/- which was carried out merely on the basis of statement of Shri Hanuman Yadav without any iota of evidences suggesting payment of such on money to him. The ld. CIT (A) on the basis of cross examination should have held that the above deponent is unreliable and false and in the interest of natural justice it could not have considered his statement as reliable.
- 1.2 On the facts and circumstances of the appellant's case, the ld. CIT (A) has thus failed to appreciate the overall facts and the hostility of the deponent Shri Hanuman Yadav towards the appellant which has been brought out during the course of cross examination. The ld. CIT (A) ought to have held that Shri Hanuman Yadav was taking undue advantage of the situation and the circumstances of the appellant and therefore, he should have held that the statement of Shri Hanuman Yadav cannot be considered as base for carrying out the impugned addition.

- 1.3. In law and on the facts and circumstances of the appellant's case, the ld. CIT (A) has erred in not appreciating the fact that the AO having provided an opportunity to the appellant for cross examination has failed to consider the facts and evidences arising there from & hence, the very opportunity of providing cross examination was not met. He should have thus deleted the very addition on this count.
 - 1.4. In law and in the facts and circumstances of the appellant's case, the ld. CIT (A) has failed to appreciate the fact that once the cross examination of deponent Shri Hanuman Yadav was carried out the onus of proving that alleged on money was paid to the deponent by the appellant shifted upon the department and in absence of any positive evidence suggesting payment of such on money to the deponent the addition was baseless and required to be deleted.
 - 1.5. In law and in the facts and circumstances of the appellant's case, the ld. CIT (A) has failed to appreciate the fact that no evidences were found during search indicating payment of such alleged on money and that the impugned addition is merely based on the statement of deponent who shown to be hostile in such cross examination.
 2. Without prejudice to the above, the ld. CIT (A) has erred in appreciating the fact that the flag ship company of the group to whom the appellant belongs to had offered income by way of sources & that this flagship company was the ultimate beneficiary of the land purchased by the appellant by way of having rights for development in such lands and thus without prejudice such income offered there by way of source was available to meet such alleged payments even otherwise.
 3. In the law and in the facts and circumstances of the case, the appellant denies his liability to pay interest u/s 234A & 234B of the Act.
3. Briefly stated the facts of the case are that a search operation was carried out on the assessee on 03.05.2007. The assessee was searched under section 153 of the Income Tax Act, 1961 (hereinafter referred to as the Act) on 19/11/2007 requiring him to furnish return of income within 35 days. The requisite return was filed. The assessment under section 143(3) read with section 153 of the Act was framed thereby the AO made addition of Rs. 42,27,000/- as undisclosed investment. The addition was made on the basis that one of the sellers Shri Hanuman Yadav who appeared before the AO and submitted that the sale consideration of the land was Rs. 35,00,000/- as against Rs. 4,48,670/- declared by the assessee. Further the AO also observed that the assessee had purchased 10 bighas land from Shri Madan Singh in Phagi for Rs. 4,15,000/- as per

the sale deed. However, in the statement recorded on 23.05.2007, Shri Madan Singh stated that he had sold the said property @ Rs. 1,55,000/- per bigha which would take the total figure at Rs. 15,50,000/-. However, the AO observed in the assessment order that Shri Nathawat stated that the statements were not read back to him nor was a copy given to him and that he had not said anything more than the price indicated in the sale deed. Thus two additions were made i.e. Rs. 30,92,000/- and Rs. 11,35,000/- totaling Rs. 42,27,000/- on account of difference between the sale consideration declared in the sale deed and in the statement given by Shri Hanuman Yadav. The assessee by this, preferred an appeal before Id. CIT (A), who after considering the submissions of the assessee and the material placed on record, sustained the addition of Rs. 30,92,000/- in respect of the transaction entered with Shri Hanuman Yadav and deleted the addition in respect of the transaction with Shri Madan Singh.

4. Aggrieved by this, the assessee and the revenue are in appeal before the Tribunal.

5. The only effective ground in assessee's appeal is against sustaining the addition made on account of the statement of Shri Hanuman Yadav. The Id. Counsel for the assessee submitted that Id. CIT (A) failed to appreciate the fact oral evidence cannot over ride the documentary evidence. In support of this contention, Id. Counsel placed reliance on the decision of the Coordinate Bench of the Tribunal rendered in the case of Shri Ghanshyam Das Agarwal vs. ITO in ITA No. 1161/JP/2010. The Id. Counsel submitted that the Tribunal while deciding the issue has followed the ratio laid down by Hon'ble Supreme Court in the case of Union of India vs. T.R. Verma 1957 SC 882 and also in the case of Kishan Chand Chellaram vs. CIT, 125 ITR 713 (SC). Further, he submitted that the Tribunal has also followed the judgment of Hon'ble Punjab & Haryana High Court rendered in the case of Paramjit Singh vs. ITO (2010) 323 ITR 588. It is also submitted by the Id. Counsel that the authorities below failed to appreciate the fact that the seller of land was having dispute with the assessee and was black mailing the assessee. In support of this contention, the Id. Counsel submitted that a recorded voice was placed before the AO.

5.1. On the contrary, the Id. D/R supported the order of the AO.

5.2. We have heard rival contentions, perused the material available on record and gone through the orders of the authorities below. The AO made the addition on the basis of the statement of the seller of the land, who in his statement before the DDIT (Inv.) has stated that the sale consideration was at Rs. 2,10,000/- per bigha and he had received total sale consideration of Rs. 35,00,000/-. The Id. Counsel has not refuted the statement. However, he submitted that the statement was not bonafide but Shri Hanuman Yadav was black mailing the assessee. He submitted that interestingly the Revenue has accepted the sale consideration of the nearby vicinity. The Id. CIT (A) affirmed the view of the AO in this

respect. Now the issue which requires our consideration is whether the addition can be sustained solely on the basis of the statement of Shri Hanuman Yadav, when there is no material placed on record that Shri Hanuman Yadav has made any claim against the assessee in any court of law seeking cancellation of sale deed or filing a recovery suit. The Coordinate Bench of the Tribunal after following the ratio laid down by Hon'ble Supreme Court under the similar circumstances has held in the case of Shri Ghanshyam Das Agarwal (supra) that in the absence of any conclusive evidence the document could not have been disbelieved. The Id. D/R could not point out any binding precedent wherein it has been held that the oral statement would over ride the documentary evidence. Therefore, respectfully following the decision of the Coordinate Bench in the case of Shri Ghanshyam Das Agarwal (supra), we are of the view that the AO was not justified to make addition solely on the basis of the statement of Shri Hanuman Yadav when there was a registered sale deed and more particularly when the maker of statement has not challenged the sale deed before any court of law. It is also not placed on record whether the sale deed was executed under coercion. Therefore, considering the totality of facts of the present case, we hereby direct the AO to delete the addition. This ground of the assessee's appeal is allowed.

6. Now we come to the revenue's appeal in ITA No. 519/JP/2011.

7. At the outset, Id. Counsel for the assessee submitted that the appeal by the revenue is not maintainable in view of the CBDT Circular No. 21/2016 [F. No. 279/Misc.142/2007-ITJ (Pt)] dated 10th December, 2015. As per section 268A if tax effect is less than Rs.10 lacs then appeal of department is not maintainable. Moreover, we do not find any exception in the appeal filed by the revenue as prescribed in the CBDT Circular referred above. Accordingly the appeal of the Department is dismissed in limine.

8. In the result, appeal of the assessee is allowed whereas appeal of the revenue is dismissed.

Order pronounced in the open court on 25/11/2016.
