

No. DIT (L&R) -I/SLP/393/2011/4589

**Government of India
Office of the Director of Income-tax (Legal & Research)-I
3rd Floor, Drum Shape Building, I P Estate, New Delhi - 110002
Phone: 2337 8302 Fax: 2337 8826**

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Sub Observations of Hon'ble Apex Court-Summary dismissal of departmental appeal by Delhi High Court by retrospective application of monetary limits of tax effect revised by CBDT Inst No 3 of 2011 - filing of review petition in High Court - reg

Kindly refer to the above.

2. In a large number of cases Hon'ble Delhi High Court has summarily dismissed the appeals filed by the department prior to 09/02/11 on the ground that the tax effect involved was less than the revised monetary limits of tax effect involved prescribed by CBDT Instruction No 3/2011 dtd 09/02/11.

3. As per Instruction No 3/2011 the revised monetary limit was applicable only for the appeals filed on or after 09/02/11 ie the date of issue of Instruction. As per para 11 of the Instruction, it was clarified that the appeals filed earlier would be governed by the old instructions operative at the time of filing.

4. On this issue SLP was filed in Supreme Court and one case namely Surya Herbal came up for hearing before the Hon'ble Supreme Court on 29/08/11. The order passed by the Hon'ble court in that case in SLP(C) CC No 13694 of 2011 is enclosed herewith. The Supreme Court has directed that review petition be filed in High Court within two weeks. In such cases the attention of the High Court may be drawn to the observations of Supreme Court with a prayer not to apply the Instruction No 3/2011 ipso facto in respect of appeals filed prior to 09/02/11.

5. In view of the above, the Board desires that in all such cases (including the cases in which proposal to file SLP has been sent to Directorate of Legal & Research) immediate steps be taken to file review petition in High Court pointing out the observations of Supreme Court. The officers may be advised not to send any proposals henceforth to file SLP in such cases.

**(R. K. Gupta)
Director of Income-tax (L&R)-I
New Delhi**