

**Government of India**  
**Office of the Director of Income-tax (Legal & Research)-I**  
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**No DIT(L&R)-I/NZ/SLP/393/2011/5091**  
**Date: 16/09/11**

To  
All Chief Commissioners of Income-tax  
All Directors General of Income-tax  
Sir / Madam,

Dated 16-09-2011

**Sub: Summary dismissal of departmental appeal by Delhi High Court by retrospective application of monetary limits of tax effect -**

- (i) suggestion to file recall petition instead of review in High Court
- (ii) filing of review / recall petition in cases where tax effect is below Rs 4 lacs – reg

Kindly refer to the above.

2. Subsequent to the letter under reference, some suggestions have been received that instead of filing review petition, a recall petition may be filed in High Court on the basis of Supreme Court order in **Surya Herbal** case. This is because for filing review petition there is a time limit of 30 days from the date of relevant order which will not be applicable for filing recall petition. In view of the above, the field officers are advised to file review or recall petition as may be suggested by the Sr Standing Counsel in a particular case.

3. Another confusion in the field relating to this matter is whether or not review petition is to be filed in those cases where tax effect is less than Rs 4 lacs. It was suggested by this Directorate letter No Addl DIT (L&R)-I/SLP/2011-12/4502 dtd 01/09/11 addressed to all CCsIT / DGsIT at Delhi that proposal to file SLP was not to be sent in such cases. In this regard it is clarified that as per letter dtd 24/08/11 the Board's decision only not to file SLP due to smallness of tax effect was conveyed. However since appeal to High Court was filed as per the relevant Instruction applicable at the time of filing, review / recall petition in such cases is also to be filed where tax effect is less than Rs 4 lacs, if filing appeal to High Court was permissible as per Instruction applicable at the time of filing.

**Yours faithfully**

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