IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 300 OF 2009
WITH
INCOME TAX APPEAL NO. 81 OF 2009

The Commissioner of Income Tax -II
Kolhapur .. Appellant

v/s.

Insight Diagnostic & Oncological
Research Institute Pvt.Ltd.
Kolhapur ..Respondent

Mr. Suresh Kumar for the appellant.

CORAM : M.S. SANKLECHA &
B.P. COLABAWALLA, J.J.
DATED : 01st FEBRUARY, 2016.

P.C.

1. Mr. Suresh Kumar, learned Counsel for the Revenue mentions Income Tax Appeal No. 81 of 2009 which is not on board and states that it raises identical issue as in Income Tax Appeal No. 300 of 2009 in respect of the same respondent assessee which is on board. At his request, Income Tax Appeal No.81 of 2009 is taken up for hearing along with Income Tax Appeal No. 300 of 2009 which is on board.

2. These Appeals relate to Assessment Years 1996-97 and 1997-98.

3. Mr. Suresh Kumar, learned Counsel appearing for the Revenue invited our attention to Circular No.21 of 2015 issued by the Central

Board for Direct Tax dated 10th December, 2015. In particular, our attention invited to paragraphs 3 and 10 therein which read as under:-

> ***"3:-*** *Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:-*

S. No.	*Appeals in Income Tax matters*	*Monetary Limit (in Rs.)*
1	*Before Appellate Tribunal*	*10,00,000/-*
2	*Before High Court*	*20,00,000/-*
3	*Before Supreme Court*	*25,00,000/-*

> *It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case."*

> ***"10:-*** *This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."*

4. In these appeals, the tax effect is less than Rs. 20 lakhs as particularised hereunder :

AY	**ITXA NO.**	**TAX EFFECT**	**PARA IN APPEAL MEMO**
1996-97	300/2009	4.15 lakh	15
1997-98	81/2009	7.26 lakh	15

5. Mr. Suresh Kumar, learned Counsel for the Revenue further states that the impugned order is a common order dealing with 2 Assessment Years. In none of the 2 Assessment Years, the tax effect is in excess of Rs.20 lakhs. Consequently, these appeals are not hit by clause 5 of the Central Board of Direct Taxes' Circular No.21/2015 dated 10th December, 2015.

6. In view of the above, Mr. Suresh Kumar, learned Counsel appearing for the Revenue seeks liberty to withdraw the appeals.

7. Accordingly, Appeals are dismissed as withdrawn.

8. Refund of Court Fees, as per Rules.

(B.P. COLABAWALLA, J.) **(M.S. SANKLECHA, J.)**