

## Cases worth Crores being dismissed but CBDT prefers to be comatose to revenue cause!

By TIOL Edit Team

**IF** the Finance Minister, Mr P Chidambaram, stands utterly disillusioned by the 'Comatose' Board of Direct Taxes (CBDT), no fault is to be found with him. Though it is the supreme policy-making body for direct taxes where not only our FM but even the Parliamentary Committees have been pinning high hopes to improve the tax : GDP ratio but the stark reality is that **CBDT has a glorious couldn't-care-less-attitude to the overall revenue cause!**

If it is not so what could be the reason for not reviewing its own now-nationwide-infamous Instruction No 1979 (Dated March 27, 2000) related to fixing of monetary limits for filing appeals before the Appellate Tribunal, HCs and the Supreme Court. The rationale behind issuing this Instruction in the administrative domain was to avoid filing of appeals in frivolous cases. Apparently, laudable was the objective but **its wordings were too loose to safeguard the interests of Revenue** as it stated appeals are to be filed only in cases where the tax effect exceeds Rs one lakh limit.

Let's now see how this Instruction has been exploited by the consulting community. The

**Bombay High Court, taking note of it in CIT Vs Camco Color Company,**

held that the action of the Tribunal in dismissing the Department's appeal for tax effect being less than Rs One Lakh in the context of Instruction No 1979, was justified. By giving this judicial interpretation a sort of right was vested in the assessee in matters which were strictly in the administrative domain.

In fact, this order of the HC opened a virtual floodgate of dismissals of the Revenue' appeals. Irrespective of the merit of the case or issues involved in a case the various benches of the Tribunal began summarily dismissing the departmental appeals (See [2004-TIOL-142-ITAT-DEL](#)).

Though several orders also came in favour of the Revenue, not taking cognizance of this administrative fiat but

**what sealed the fate against the Revenue was the Special Bench order in the case of ITO Vs. Bir Engg. Works** ([2005-TIOL-45-ITAT-AMRITSAR-SB](#)). Herefrom the tribunal benches have been coolly dismissing all appeals having revenue implications of less than Rs one lakh.

It is not that the issue was not brought to the notice of the Board which has also incidentally got a full-time Member (Judicial) but as it is widely perceived that the Board does no other work apart from **playing chess on the huge canvas of transfer.**

Despite several reminders from various Chief Commissioners none in this sleepy Board has even bothered to review this Instruction in the past five years! In the process the Revenue has **lost hundreds of crores in the past and continues to lose huge revenue everyday.**

On top of all this, our Finance Minister who has been looking for options like FBT for additional source of revenue, is not even aware of such a big hole in his kitty!

It is high time this Instruction is redrafted so that no vested right of the assessee comes into the picture and the CBDT may borrow some saving clauses from its earlier Instruction No 1903, dated October 28, 1992 and 1777 of November 4, 1987 so that the Revenue is able to file appeal in appropriate cases irrespective of tax effects.

Even if this issue is examined on the equity ground, such a blanket dismissal of appeals filed on merit ground goes against the canons of justice as no facts or points of law are looked into before a dismissal order is passed.