

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, CHENNAI

श्री चंद्र पूजारी, लेखा सदस्य एवं
श्री चल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य के समक्ष
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER &
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
आयकर अपील सं./ **I.T.A. No.1868/Mds/2014**
(निर्धारण वर्ष / Assessment Year : 2007-2008)

The Assistant Commissioner of
Income Tax,
Circle I (1)
Trichy.

Vs M/s. Wellshine Investments and
Financial Services Ltd,
B-101, "Harihar Residency"
20, Mannarpuram Main Road,
Mannarpuram,
Trichy 620 020.

(अपीलार्थी/Appellant)

[PAN: AAACW 0837C]
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri. N. Madhavan, IRS, JCIT.
प्रत्यर्थी की ओर से / Respondent by : Shri. S. Keerthirajan, C.A.

सुनवाई की तारीख/Date of hearing : 13.04.2015
घोषणा की तारीख /Date of Pronouncement : 13.04.2015

आदेश / O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER

This appeal by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals), Tiruchirapalli, dated 27.03.2014 for the assessment year 2007-2008.

2. In this appeal, the Revenue raised the following grounds:-

“ (i) The CIT(A) erred in deleting the addition u/s.2(22) (e) by relying on the case laws which are not applicable to the instant case.

(ii) The CIT(A) failed to appreciate that the definition of the dividend under the Income Tax Act is inclusive and not exhaustive”.

3. We have heard both the parties and perused the material on record. As seen from the order of CIT(A), the tax effect from this appeal is less than ₹4,00,000/- as the deletion of addition is ₹ 12,00,000/- which is less than monetary limits fixed by the CBDT to file appeal by the Revenue as per CBDT circular No.5/2014, dated 10th July, 2014 wherein the monetary limit fixed at ₹4,00,000/- to file appeal before the Tribunal. The Id Departmental Representative submitted that the Board's circular No.5/2014 issued on 10.7.2014 revising the monetary limits for filing of appeals by the department before the Tribunal will apply to the appeals filed on or after 10.07.2014 and not to the appeal filed prior to 10.07.2014. Thus, Id. Departmental Representative vehemently opposed the argument of the assessee and stated that this instruction is prospective and not retrospective. In our opinion, as held by the Kolkata Bench of the Tribunal in the case of *ITO vs. Sujit Pandey* vide order dated 10.09.2014 in ITA No.1914(Kol)/2012, the CBDT instruction No.5/2014, dated 10.7.2014 had revised the monetary limit for filing an appeal to Tribunal to ₹4,00,000/- and the same would be applicable to pending appeals also for the reason that the same is exactly identical to earlier instructions issued by CBDT, therefore, where tax effect was less than

₹4,00,000/- appeal was not maintainable. Being so, the Revenue authorities are precluded from filing of appeal in this case also. Accordingly, this appeal is dismissed as un-admitted.

4. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on Monday, the 13th day of April, 2015, at Chennai.

Sd/-

(चल्ला नागेन्द्र प्रसाद)

(CHALLA NAGENDRA PRASAD)

न्यायिक सदस्य/ JUDICIAL MEMBER

चेन्नई/Chennai.

दिनांक/Dated:13 .04.2015.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2. प्रत्यर्थी/ Respondent
3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय
प्रतिनिधि/DR

6. गार्ड फाईल/GF.

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य/ ACCOUNTANT MEMBER