

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

Before Shri Kul Bharat, Hon'ble Judicial Member and
Shri Manish Borad, Hon'ble Accountant Member

ITA No. 385/Ind/2017
A.Y. 2011-12

ACIT
4(1), Indore :: Appellant

Vs

SPL Creation
Mohta Bag, Airport Road
Indore :: Respondent

Appellant by	Shri R.P. Morya, Sr.DR
Respondent by	Shri Mahesh Agrawal & Amit Choudhary, ARs
Date of hearing	25.7.2018
Date of pronouncement	26 .7.2018

O R D E R

PER SHRI MANISH BORAD, AM

This appeal by the revenue pertaining to Assessment Year 2011-12 is directed against the order of Id. Commissioner of Income-tax (Appeals)-II, Indore, dated 28.2.2017 which is arising out of the

order u/s 143(3)/148 of the Income Tax Act framed by the ACIT, 4(1), Indore.

2. The Revenue has raised following Grounds of appeal:

1. Whether on facts and circumstances of the case, Ld. CIT(A) is justified in deleting the addition made by the Assessing Officer of Rs.54,65,111/- on account of u/s 68 of the IT Act ignoring the findings in the assessment.
2. Whether on facts and circumstances of the case, Ld. CIT(A) is justified in deleting the addition u/s 68 of the IT Act by accepting the plea of the assessee that mere filing of copy of ITR, Bank account statement, Audited balance sheet & assessment order of Jayant Securities and Finance Pvt. Ltd is sufficient for discharging the onus to explain the credit entries even when creditor has provided accommodation entry as per assessment order.
3. At the outset of hearing of this appeal, the learned counsel for the assessee submitted that the instant appeal filed by the revenue is liable to be dismissed on account of low tax effect in view of Circular No. 3/2018 dated 11.7.2018 issued by Central Board of Direct Taxes. He submitted that the tax effect in the instant appeal is Rs. 17,19,619/- which is less than the prescribed limit of Rs.20 lacs referred in the CBDT circular required for filing appeal by the Revenue before ITAT. He also submitted that the present appeal

does not fall into any of the exceptions mentioned in CBDT Circular No.3/2018 dated 11.7.2018. Per contra Ld. departmental representative could not point out that the issue raised in this appeal was under any of the exceptions mentioned in the circular which could have precluded the case from being dismissed for low tax effect.

4. We have heard the rival contentions and perused the records placed before us. In the instant appeal of revenue the tax effect is Rs. 17,19,619/-. We find that CBDT issued Circular No.3 of 2018 dated 11.7.2018 vide Notification No. F.No.279/Misc.142/2007-ITJ(Pt.) and as per this circular the monetary limits and other conditions for filing departmental appeals (in income tax matters) before the Income Tax Appellate Tribunal has been specified. As per this circular department shall not file the appeal before the Income Tax Appellate Tribunal (ITAT) in case the effect of tax does not exceed the monetary limit of Rs.20 lacs. It is further specified in Para 13 of the CBDT Circular No.3/2018 that the circular will also apply retrospectively on all the pending appeals/cross objections if the tax effect is below the specified tax limit and such

appeals shall be withdrawn/not processed. It is also accepted by both the parties that the issue raised in this appeal does not fall in any of the exceptions provided in para 10 of the circular. We therefore without going in to the merits of the case, dismiss the revenue's appeal in *lemine* being not maintainable in view of CBDT Circular No.3/2018 dated 11.7.2018.

5. In the result appeal of the revenue is dismissed.

Order pronounced in open Court on 26 July, 2018.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

July 26 , 2018

Dev/-