

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH : KOLKATA

Before Shri M.Balaganesh, AM & Shri S.S. Viswanethra Ravi, JM

I.T.A No. 1647/Kol/2014

A.Y 2010-11

A.C.I.T, Cir-1, Asansol

-vs-

M/s. Aniraj Enterprise

PAN: AAFFA 7717B

(Appellant)

(Respondent)

For the Appellant : Shri S. Yaden, Addl.CIT, Id.DR

For the Respondent : Shri S.K. Tulsiyan, FCA,
Shri R.N. Ram, IRS(Retired), Id.ARS

Date of Hearing : 06.08.2018

Date of Pronouncement : 06.08.2018

ORDER

Shri S.S. Viswanethra Ravi, JM:

The above appeal by the Revenue is against the order dt. 19-06-2014 of the Learned Commissioner of Income Tax(Appeals), Asansol for the A.Y 2010-11.

2. On perusal of record, it is noticed that the appeal filed by the Revenue in view of latest CBDT Circular No. 3/2018 dated 11.07.2018 being tax effect below Rs.20 lakhs is not maintainable.

3. The CBDT has issued Circular No. 3/2018 dated 11.07.2018, whereby the monetary limits for filing of appeals by the Revenue Department before Income Tax Appellate Tribunal, High Courts and SLP before Supreme Court have been increased. The revised monetary limits laid down in para-3 of this Circular and the manner of computing tax effect as laid down in para-4 of this Circular are as follows:

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

Sl. No.	Appeals/SLP's in Income-tax matters	Monetary Limit (in Rs)
1.	Before Appellate Tribunal	20,00,000/-
2.	Before High Court	50,00,000/-
3.	Before Supreme Court	1,00,00,000/-

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.

4. For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as 'disputed issues'). Further, 'tax effect' shall be tax including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against."

3. In para-13 of the said circular it has further been clarified that the revised monetary limits will apply retrospectively. The relevant para-13 of the Circular reads thus:

"13. This Circular will apply to SLPs/appeals/cross objections/references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.

4. In the present case, the disputed addition(s) and tax thereon is below Rs.20,00,000/-.

5. In view of the above, the appeal filed by the Revenue is dismissed as not maintainable in view of latest CBDT Circular No. 3/2018 dt. 11-07-2018.

6. In the result, the appeal of revenue in ITA No. 1647/Kol/2014 for the A.Y 2010-11 is dismissed.

Order pronounced in the Court on 06 .08.2018

Sd/-
M. Balaganesh
Accountant Member

Sd/-
S.S. Viswanethra Ravi
Judicial Member

Dated : 06-08-2018

*PP/SPS Copy of the order forwarded to:-

1. Appellant –O/o the ACIT, Circle-1, Asansol, Sahana Apartment, Lower Chelidanga, Asansol-713304.
2. Respondent –M/s. Aniraj Enterprise, Akash Apartment, G.T Road, Gopalpur, Asansol-713304.
3. The CIT(A), Asansol
4. CIT Kolkata
5. DR, Kolkata Benches, Kolkata

//True Copy//

By order,
Sr.PS/H.O.O
ITAT, Kolkata