

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA

[Before Shri S.S.Godara, JM & Dr. A.L. Saini, AM]

ITA No. &A.Y. (1)	Revenue/Rep. by (2)	V s 3	Assessee/PAN/Rep. by (4)	Quantum involved(Rs.) (5)	Tax effect involved (Rs.) (6)
I.T.A No. 1223/Kol/2015 A.Y.2011-12	ITO Ward 40(1), Kolkata Shri S. Dasgupta, Addl. CIT-DR	V s	Shri Kalidas Saha, C/o. S.N. Ghosh & Associates, Seven Brothers' Lodge, Buroshibtala, Chinsurah, Hooghly – 712 105. PAN No. ALGPS 1763 B Shri Somnath Ghosh, Advocate		
1351/Kol/2015 2011-12	DCIT CIR 7(1), Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s. Lexus Motors Ltd., 209, A.J.C. Bose Road, Kolkata – 700 017. PAN No.AAACL 5356 K Shri Akkal Dudhewala, FCA		
718/Kol/2017 2008-09	ITO Ward 8(2), Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s. Enar Industrial Enterprise Ltd. 9A, Poonam Building, 5/2, Russel Street, Kolkata – 700 071. PAN AABCE 1919 Q Anil Kochar, Advocate		
1297/Kol/2016 2003-04	DCIT CIR 12(2), Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s. Tantia Construction Ltd. 25-27, Netaji Subash Road, Kolkata – 700 001. PAN No. AABCT 0811 E Shri Manish Tiwari, AR		
1602/Kol/2017 2013-14	DCIT CIR 2(2), Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s. Aryan Mining & Trading Corp. Ltd., P-1, Hide Lane, 8 th Floor, Kolkata – 700 073. PAN No. AADCA 7247 B A.K. Tulsian, FCA		
594/Kol/2016 2009-10	DCIT CIR 7(1), Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s. Bengal Park Chambers Housing Development Ltd., 3/1, Dr. U.N. Brahmachari Street, Kolkata - 700017 PAN No. AACCB 3559 Q Shri Subash Agarwal, Advocate		
1713/Kol/2016 2012-13	ITO Ward 2(2), Kolkata Shri S. Dasgupta, Addl. CIT-DR		Ms/ Corelynx Solutions Pvt. Ltd. STP-II, Building, 1 st Floor, Plot-53, Block DN, Sector-V, Salt Lake City, Kolkata – 91. PAN No. AACCC 5625 J Shri Ajay Kumar Lahoti, FCA		
51/Kol/2015 2009-10	ITO Ward 2(4), Durgapur, Shri S. Dasgupta, Addl. CIT-DR		Shri Kalyan Sen, 10/15, Aurobindo Sarani, A-Zone, Durgapur - 713216 PAN No.BDAPS 2803 P Shri Shankar Shaw, FCA		
2312/Kol/2017 2014-15	DCIT (IT) CIR 2(1), Kolkata Shri S. Dasgupta, Addl. CIT-DR		Shri Santosh Prasad, 4C, Anamika, Green Field Heights, DJ Block, Action Area-1, New Town, Kolkata – 700 156 PAN No.AGZPP 9152 D Shri Navin Jain, AR		
2101/Kol/2017 2009-10	ACIT CIR 30, Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s Foto Industries 13, Jamir Lane, Gariahat Mall Basement, Kolkata – 19. PAN No. AAAFF 7739 H None		
2215/Kol/2014 & CO 07/Kol/2015 AY 2011-12	ACIT CIR 44, Kolkata Shri S. Dasgupta, Addl. CIT-DR		M/s. M. Ramdeo & Co.(Bhatter), 23, Kalakar Street, Kolkata – 700 007. PAN No. AAFFM 3435 N Shri Subash Agarwal & Siddharth Agarwal, Advocete.		

Date of hearing: 31.07.2018
Date of pronouncement: 31.07.2018

ORDER

PER DR. A.L. SAINI, ACCOUNTANT MEMBER:

1. These Revenue's appeals arise out of the various orders of the learned CIT(A)'s appeals orders in assessments framed u/s 147 / 143(3) / 144 of the Income Tax Act, 1961; in short 'the Act'.

2. It is seen at the outset that the tax effect on the disputed additions before us is less than Rs. 20 lacs in all cases i.e. less than the prescribed revised threshold limit in CBDT's latest Circular No. 3/2018 dated 11.07.2018. It will be pertinent to reproduce the relevant portion of the said Circular No. 3/2018 dated 11.07.2018:-

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

Sl.

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

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."

3.1 We find that intention behind the Circular No3/2018 dated 11.07.2018 needs to be understood in the following perspective:-

By passage of time, the money value has gone down, the cost of litigation expenses has gone up, number of assesses on the files of the department have been increased and consequently, the burden on the department is also increased to a tremendous extent. The Corridors of the Superior Courts are choked with huge pendency of cases. In this view of the matter, the CBDT has rightly taken a decision to revise the monetary limits in tune with the present value of money and with a view to reduce the litigation and offering relief to small tax payers. This is also in view of the fact that time and energy of the department

could be used more productively and efficiently to catch hold of big fishes, who in turn would contribute more to the development of the country.

3.2. On perusal of the Circular No. 3/2018 dated 11.07.2018 and the materials available on record, we do not see these cases falling under any of the exceptions contemplated in the said circular *per se*. We also find that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. *Hon'ble apex court in Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)* has settled the law that CBDT's circulars are very much binding on revenue authorities. We thus hold that all these Revenue's appeals deserve to be dismissed in terms of low tax effect. We make it clear that it shall very much open for the Revenue to seek necessary rectification in case it is found that any of these appeals involve operations of exception clauses in the tax effect circular as per law.

4. None turns up in support of the CO No.07/Kol/2015 in ITA No.2215/Kol/2014. This cross objection is dismissed as non prosecution.

5. These Revenue's appeals are dismissed for involving lower than the prescribed minimum tax effect whereas assessee's CO No.07/Kol/2015 is dismissed as non prosecution.

Order pronounced in the Court on 31.07.2018

Sd/-
[S.S. Godara]
Accountant Member

Sd/-
[Dr. A.L. Saini]
Judicial Member

Dated : 31.07.2018

BS. SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी / Appellant
2. प्रत्यर्थी / Respondent
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Sr. Private Secretary, Head of Office/DDO
आयकर अपीलीय अधिकरण,
कोलकाता ।