

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 298/JP/2018
निर्धारण वर्ष/Assessment Year : 2008-09

Income Tax Officer, Ward 2(2), Alwar.	बनाम Vs.	Raina Jalan, 318-A DLF, Phase-4, Hamilton Court, Gurgaon, Haryana
स्थायी लेखा सं./जीआईआर सं./	PAN/GIR No.: ABPPJ 4772 N	
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT)

निर्धारिती की ओर से / Assessee by : None.

सुनवाई की तारीख / Date of Hearing: 24/08/2018

उदघोषणा की तारीख / Date of Pronouncement : 28/08/2018

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.:

This appeal by the revenue is directed against the order dated 01/12/2017 of Id. CIT(A), Alwar for the A.Y. 2008-09. The revenue has raised following grounds of appeal:

- "1. On the facts and circumstances of the case and law, the Id. CIT(A) erred in holding the assessment order passed U/s 143(3) of the IT Act, 1961 dated 29/01/2016 is invalid and void ab-initio, without considering the facts placed on the assessment record that the postal authorities shown the registry of notice issued U/s 148 of the Act on 31/3/2015.*
- 2. On the facts and circumstances of the case and in law the Id. CIT(A) erred in holding the assessment order passed U/s 143(3)/147 of the IT Act, 1961 dated 29/01/2016 is invalid and void ab initio, when the assessee has not raised such objection during the course of*

assessment proceedings, for which the assessee is not entitled to raise such objection in first appeal as settled in various case laws.”

2. At the time of hearing, no body appeared on behalf of the assessee but the Id. D/R has fairly submitted that the tax effect in Revenue's appeal is stated to be Rs. 1,33,370/- which is below the prescribed limit of Rs 20 lacs. The tax effect involved in the Revenue's appeal is less than 20 lacs which is prescribed threshold limit in terms of the CBDT Circular No. 3/2018 dated 11th July, 2018 issued in supersession of its earlier Circular No. 21 of 2015 dated 10.12.2015.

3. We have heard the rival contentions and perused the materials available on record. It is observed that the demand/ tax effect in the Revenue's appeal in question is below Rs. 20.00 lacs . Under the powers vested by section. 268A(1) of the I T Act, CBDT has recently issued Circular No. 3/2018 dated 11th July, 2018 (F No. 279/Misc. 142/2007-ITJ(Pt) instructing the authorities below that departmental appeal should not be filed before ITAT where the demand/tax effect does not exceed Rs. 20 lacs. The circular is specifically mentioned to be applicable for all pending appeals.

4. Subject to some exceptions, it is further directed by CBDT that all the departmental appeals pending before ITAT where the demand/tax effect is not exceeding than 20 lacs should be either withdrawn or not pressed by the departmental representatives.

5. The present appeal is not covered by any exceptions mentioned in the said CBDT circular. Since the tax demand in dispute in this departmental appeal is below the limit set out by CBDT for the appeal, the appeal of the assessee is

not maintainable in view of CBDT Circular No. 3 of 2018 dated 11.07.2018.
Accordingly the appeal of the Department is dismissed as not
pressed/withdrawn.

6. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 28/08/2018.

Sd/-
(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य / Accountant Member

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 28th August, 2018

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- The ITO, Ward 2(2), Alwar.
2. प्रत्यर्थी / The Respondent- Smt. Raina Jalan, Gurgaon, Haryana
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 298/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar