

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. 559/JP/2018
निर्धारण वर्ष / Assessment Year : 2014-15

The ACIT, Circle-2, Alwar	बनाम Vs.	Shri Subhash Goyal, New Bus Stand, Industrial Area, Shahpura, Distt. Jaipur
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: ABQPG 5724 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

प्रत्याक्षेपण / C.O. No. 23/JP/2018
(Arising out of आयकर अपील सं./ ITA No. 559/JP/2018)
निर्धारण वर्ष / Assessment Year 2014-15

Shri Subhash Goyal, New Bus Stand, Industrial Area, Shahpura, Distt. Jaipur	बनाम Vs.	The ACIT, Circle-2, Alwar
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: ABQPG5724L		
प्रत्याक्षेपक / Objector		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri J. S. Kulhari (JCIT)
निर्धारिती की ओर से / Assessee by : Shri S. L. Poddar (Adv.)

सुनवाई की तारीख / Date of Hearing : 24/08/2018
उदघोषणा की तारीख / Date of Pronouncement : 28/08/2018

आदेश / ORDER

PER: VIJAY PAL RAO, JM:

The appeal filed by the Revenue and the cross objection filed by the assessee are directed against the order of the Id. CIT(A), Alwar dated

01/02/2018 for the A.Y. 2014-15. The grounds taken by the Revenue and the assessee are as under:-

Grounds of revenue's appeal:

- “1. On the facts and in the circumstances of the case Id. CIT(A) erred in deleting the addition of Rs. 20,37,465/- made by the AO on account of commission payment to NRI without appreciating the material facts of the case.
2. On the facts and circumstances of the case and in law Id. CIT(A) has erred in restricting the disallowance of 11,97,636/- to Rs. 1,19,763/- made by AO on account of packing labour and packing material expenses without appreciating the material facts of the case.
3. On the facts and circumstances of the case and in law Id. CIT(A) has erred in deleting the disallowance of Rs. 53,269/- made by the AO on account of interest payment u/s 40(a)(ia) r.w.s. 194A of the IT Act 1961.
4. On the facts and circumstances of the case and in law Id. CIT(A) has erred in reducing the disallowance of Rs. 6,70,000/- to Rs. 67,000/- made by the AO u/s 40(a)(ia) r.w.s 194C of the IT Act 1961.”

Grounds of assessee's C.O.:

- “1. That under the facts and circumstances of the case the learned CIT(A) has erred confirming the addition of Rs. 1,19,763/- on account of packing labour expenses and packing material expenses.
2. That under the facts and circumstances of the case the learned CIT(A) has erred confirming the disallowance of excess depreciation claimed for more than 180 days for Rs. 3,75,000/-
3. That under the facts and circumstances of the case the learned CIT(A) has erred confirming the disallowance of Rs. 67,000/- on account of mining labour expenses without considering the submission of the assessee.
4. The assessee craves your indulgence to add amend or alter all or any grounds of appeal before or at the time of hearing.”

2. Firstly we take C.O. of the assessee. At the outset of hearing, the Id AR of the assessee has stated that he doesn't wish to press the grounds so taken in the cross objection therefore, the same may be dismissed as not pressed. On the other hand, the Id DR has not raised any objection if the assessee does not want to press the grounds of C.O. Therefore, the grounds taken by the assessee in the C.O. are dismissed being not pressed.

3. Now we take the revenue's appeal. At the time of hearing, the Id. AR of the assessee has raised an objection of maintainability of the appeal of the Revenue due to the tax effect not exceeding Rs. 20 lacs as per the CBDT Circle No. 3 of 2018 dated 11th July, 2018. The Id. A/R submitted that in the facts of the present case, tax effect in Revenue's appeal is stated to be Rs. 18,56,700/- which is below the prescribed limit of Rs 20 lacs.

4. The Id. D/R has fairly submitted that 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.

5. 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.

6. 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.

7. 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.

8. In the result, both the appeal of the Revenue and the C.O. of the assessee are 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:- 28/08/2018

***Ranjan**

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

1. अपीलार्थी / The Appellant- The ACIT, Circle-2, Alwar
2. प्रत्यर्थी / The Respondent- Shri Subhash Goyal, Jaipur
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. 559/JP/2018 & CO 23/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar