

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 Nos. 762 & 763/JP/2018
निर्धारण वर्ष/Assessment Years : 2013-14 & 14-15.

The DCIT, Circler-3, Jaipur.	बनाम Vs.	M/s. Chokhi Dhani Resorts Pvt. Ltd., Choki Dhani Tower, S-8, Shyam Nagar, Ajmer Road, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABCP 1152 A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri A.S. Nehra (JCIT)

निर्धारिती की ओर से / Assessee by : Shri R.K. Batra (C.A.)

सुनवाई की तारीख / Date of Hearing : 09/08/2018

उदघोषणा की तारीख / Date of Pronouncement : 14/08/2018

आदेश / ORDER

PER VIJAY PAL RAO, J.M.

These two appeals by the Revenue are directed against two separate orders of Id. CIT (A)-I, Jaipur both dated 27.03.2018 for the assessment years 2013-14 and 14-15 respectively. The grounds by the Revenue in ITA No. 762/JP/2018 are as under :-

1. Whether on the facts and in the circumstances of the case, the CIT (A) was right in deleting the disallowance of credit card charges paid to Bank u/s 40(a)(ia) of the Act amounting to Rs. 5,04,193/-.
2. Whether on the facts and in the circumstances of the case, the CIT (A) was right in deleting the disallowance u/s 36(1)(va) r.w.s. 2(24)(x) of PF &ESI dues of employees amounting to Rs. 19,22,350/-.

3. Whether on the facts and in the circumstances of the case, the CIT (A) was right in deleting the lump sum disallowance out of Advt. business promotion, travelling, conveyance expenditures amounting to Rs. 7,00,000/-.

The appellant craves, leave or reserves the right to amend modify, alter add or forego any ground (s) of appeal at any time before or during the hearing of this appeal."

Grounds raised in ITA No. 763/JP/2018 :

1. Whether on the facts and in the circumstances of the case, the CIT (A) was right in deleting the disallowance u/s 36(1)(va) r.w.s. 2(24)(x) of PF & ESI dues of employees amounting to Rs. 24,47,717/-.
2. Whether on the facts and in the circumstances of the case, the CIT (A) was right in deleting the addition of Rs. 64,000/- on account of allotment of shares at lower rate by Rs/ 8/- per share.
3. Whether on the facts and in the circumstances of the case, the CIT (A) was right in deleting the lump sum disallowance out of Advt. business promotion, travelling, conveyance expenditures amounting to Rs. 9,50,000/-.

The appellant craves, leave or reserves the right to amend modify, alter add or forego any ground (s) of appeal at any time before or during the hearing of this appeal."

2. The disputes in the appeal of the revenue for the A.Y. 2013-14 are regarding disallowance/deletion of additions of Rs. 5,04,193/- made by the AO on account of credit card charges paid to bank, Rs. 19,22,350/- made by the AO on account of PF & ESI dues of the employees and Rs. 7,00,000/- on account Advertisement, business promotion, travelling, conveyance expenses etc. and for the A.Y. 2014-15 the disputes are regarding disallowance/deletion of additions of Rs. 24,47,717/- on account of PF & ESI dues of employees, Rs. 64,000/- on account of allotment of

shares at lower rate and Rs. 9,50,000/- on account of Advertisement, business promotion, travelling, conveyance expenses etc. Admittedly the tax effect in each of the revenue's appeals is not exceeding the limit of Rs. 20 lacs as per CBDT Circular No. 3 of 2018.

2.1. The Id. D/R has fairly submitted that the tax effect involved in each of 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 appeals in question is below Rs. 20.00 lacs . Under the powers vested by section. 268A(1) of the IT 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 appeals of the Revenue are dismissed.

Order pronounced in the open court on 14/08/2018.

Sd/-

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

Sd/-

(विजय पाल रॉव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Jaipur

Dated:- 14/08/2018.

Das/

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

1. The Appellant- The DCIT, Circle-3, Jaipur.
2. The Respondent – M/s. Chokhi Dhani Resorts Pvt. Ltd., Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 762 & 763/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar