

IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'SMC' KOLKATA

[Before Hon'ble Shri Satbeer Singh Godara, JM ]

**ITA No.1316/Kol/2018**  
**Assessment Year : 2011-12**

I.T.O., Ward-27(4)  
Haldia

-versus-

Aainul Mallick  
Midnapore  
(PAN:AJGP7205C)  
(Respondent)

(Appellant)

For the Appellant: Shri Anil Kochar, Advocate

For the Respondent: Shri Kapil Mondal, JCIT

Date of Hearing : 17.09.2018.

Date of Pronouncement : 19.09.2018.

**ORDER**

**PER S.S.GODARA, JM:**

This Revenue's appeal for assessment year 2011-12 arises against the Commissioner of Income Tax (Appeals)-7, Kolkata's order dated 14.03.2018, passed in case No.211/CIT(A)-7/Kol/Ward-27(4)/16-17 in proceedings u/s. 143(3)/263 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 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 this case 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 this Revenue's appeal 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. This Revenue's appeal is dismissed for involving lower than the prescribed minimum tax effect.

Order pronounced in the open court on 19.09.2018.

Sd/-  
(S.S.Godara)  
(Judicial Member)

Dated : 19.09.2018.

[RG Sr.PS]

Copy of the order forwarded to:

1. Aainul Mallick, Prop: Ansari Saw Mill, Vill-Belun PO-Panskura Purba Midnapur-721601.
2. I.T.O., Ward-27 (4), Kolkata.
3. CIT(A)-7, Kolkata
4. C.I.T.-9, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary  
Head Of Office/ D.D.O., ITAT Kolkata Benches