

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

श्रीमती दिवा सिंह, न्यायकि सदस्य एवं, डा. बी.आर.आर. कुमार, लेखा सदस्य
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R. KUMAR, AM

आयकर अपील सं./ITA NO. 1453/Chd/2017
निर्धारण वर्ष / Assessment Year : 2009-10

The ITO, W-1 Barnala	बनाम	Sh. Avtar Singh Prop. Maan Traders VPO Thikriwal Barnala
स्थायी लेखा सं./PAN NO:	BGEPS6822H	
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Cross Objection No. 31/Chd/2018
(In ITA No. 1453/Chd/2018)
Assessment Year: 2009-10

Sh. Avtar Singh Prop. Maan Traders VPO Thikriwal Barnala	बनाम	The ITO, W-1 Barnala
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निर्धारिती की ओर से/Assessee by : Shri. Ajay Jain
राजस्व की ओर से/ Revenue by : Smt. Chandrakanta

सुनवाई की तारीख/Date of Hearing : 08/08/2018
उदघोषणा की तारीख/Date of Pronouncement : 25/09/2018

आदेश/Order

PER BENCH :

The present appeal has been filed by the Revenue and Cross Objection has been filed by the Assessee against the order of the Ld. CIT(A).

2. According to Circular No. 03/2018 dated 11/07/2018, the CBDT in supersession of earlier instructions has directed that department's appeals before ITAT shall not be filed in cases where the tax effect does not exceed the monetary limit of Rs. 20 lacs. The tax will not include any interest thereon. It is further clarified that if in the case of an assessee, disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of disputed issues exceeds the monetary limit so specified.

3. Admittedly, in the departmental appeals, the tax effect is less than Rs. 20 lacs, therefore, departmental appeal is not maintainable. The Ld. DR could not bring to our notice any exceptions mentioned in the said Circular.

4. In view of the above, appeal of the Revenue is dismissed.

5. Regarding the Cross Objection, the assessee has taken only one effective ground for the first time before us which reads as under:

" That the Ld. CIT(A) has wrongly upheld the addition of bank deposit by way of cheques & draft without appreciating the fact that the case has been selected under scrutiny to verify the cash deposit exceeding Rs. 10 Lakhs in bank account of assessee & therefore the verification of bank deposit other than cash was not within the scope of Assessing Officer."

5.1 Since the ground taken up by the Assessee goes to the root of the addition made, the same is hereby admitted. And since the Revenue has not got the opportunity to adjudicate on the issue raised by the assessee, we hereby restore the matter back to the file of Ld. CIT(A) to adjudicate and to pass a speaking order on the issue raised in accordance with the provisions of the Income Tax Act, 1961 and as per the Circulars issued by the CBDT which are binding on the Revenue.

6. As a result, the appeal of the Revenue is dismissed and Cross Objection of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
दिवा सिंह
(DIVA SINGH)
न्यायकि सदस्य/ Judicial Member

AG

Date: 25/09/2018

Sd/-
डा. बी.आर.आर. कुमार,
(Dr. B.R.R. KUMAR)
लेखा सदस्य/ Accountant Member

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar