

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'FRIDAY' : NEW DELHI)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**MA No.402/Del/2016  
(in ITA No.2815/Del./2011)  
(ASSESSMENT YEAR : 2007-08)**

**AND**

**ITA No.2815/Del./2011  
(ASSESSMENT YEAR : 2007-08)**

ACIT, Circle 32 (1),  
New Delhi.

vs. Smt. Sumeera Gupta,  
B – 102, Niti Bagh,  
New Delhi.

**(PAN : AAJPG4003E)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Sandeep, Advocate  
REVENUE BY : Smt. Naina Sain Kapil, Senior DR

Date of Hearing : 05.10.2018

Date of Order : 18.10.2018

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Applicant/Revenue, ACIT, Circle 32 (1), New Delhi, by moving present misc. application under section 254 (2) of the Income-tax Act, 1961 (for short 'the Act') sought for recalling the order dated 30.05.2016 passed in ITA No.2815/Del/2011 for AY 2007-08 on the grounds inter alia that from the perusal of the

record, it is noticed that the tax effect involved in this case is Rs.11,19,351/- which is above the prescribed monetary limit as per CBDT Circular No.21/2015 dated 10.12.2015 for filing the appeal before the Tribunal; that order of dismissal passed in this case may be recalled and appeal be listed for fresh hearing.

2. We have heard the Id. DR for the Applicant/Revenue and Id. AR for the Respondent/Assessee, perused the impugned order passed by the Bench, documents relied upon in the appeals well as case laws relied upon by the parties for the purpose of disposal of this application.

3. Bare perusal of the grounds of appeal and order passed by the lower Revenue authorities go to prove that the tax effect in this case is Rs.11,19,351/- which is beyond the prescribed monetary limit for filing appeal before the Tribunal and as such is not covered under the CBDT Circular No.21/2015, so we hereby rectify the mistake apparent on record and order dated 30.05.2016 passed in ITA No.2815/Del/2011 for AY 2007-08 is ordered to be recalled and appeal is heard today i.e. 05.10.2018 itself by the Bench.

4. The Appellant, ACIT, Circle 32 (1), New Delhi, (hereinafter referred to as 'the revenue') by filing the present appeal sought to

set aside the impugned order dated 11.04.2011 passed by the Commissioner of Income-tax (Appeals)-XXVI, New Delhi qua the assessment year 2007-08.

5. Perusal of the aforesaid appeal filed by the Revenue apparently show that the same is having low tax effect as per CBDT Circular No.3/2018 dated 11<sup>th</sup> July, 2018 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.20,00,000/- and this factual position has been fairly conceded by the Ld. D.R. The Ld. A.R. contended that the appeal of the Revenue may be dismissed in the light of CBDT Circular (supra).

6. We have heard the parties on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted as under:

*“Subject: Revision of monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court-measures for reducing litigation-Reg.*

*Reference is invited to Board's Circular No. 21 of 2015 dated 10.12.2015 wherein monetary limits and other conditions for filing departmental appeals (in Income-tax matters) before*

*Income Tax Appellate Tribunal, High Courts and SLPs/ appeals before Supreme Court were specified.*

*2. In supersession of the above Circular, it has been decided by the Board that departmental appeals may be filed on merits before Income Tax Appellate Tribunal and High Courts and SLPs/ appeals before Supreme Court keeping in view the monetary limits and conditions specified below.*

*3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:*

<i>S. No.</i>	<i>Appeals/SLPs 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.*

.....

*12. It is clarified that the monetary limit of Rs. 20 lakhs for filing appeals before the ITAT would apply equally to cross objections under section 253(4) of the Act. Cross objections below this monetary limit, already filed, should be pursued for dismissal as withdrawn/ not pressed. Filing of cross objections below the monetary limit may not be considered henceforth. Similarly, references to High Courts and SLPs/ appeals before Supreme Court below the monetary limit of Rs. 50 lakhs and Rs. 1 Crore respectively should be pursued for dismissal as withdrawn/ not pressed. References before High Court and SLPs/ appeals below these limits may not be considered henceforth.*

*13. This Circular will apply to SLPs/ appeals/ cross objections/ references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/ cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed.*

*14. The above may be brought to the notice of all concerned.*

*15. This issues under Section 268A of the Income-tax Act 1961.....”*

7. In view of the CBDT Circular No.3/2018 dated 11.07.2018 having retrospective effect and what has been discussed above, we are of the considered view that the aforesaid appeal is not maintainable because of low tax effect i.e. less than Rs.20,00,000/- hence, the aforesaid appeal filed by the Revenue is hereby dismissed having been become infructuous. However, in case, the present appeal is found to be covered by the revised guidelines issued by the CBDT vide letter F.No.279/Misc.142/2007-ITJ (Pt) dated 20<sup>th</sup> August, 2018, the Department shall be at liberty to seek recall of this order under relevant provisions of law.

**Order pronounced in open court on this 18<sup>th</sup> day of October, 2018.**

**Sd/-  
(R.K. PANDA)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 18<sup>th</sup> day of October, 2018  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-XXVI, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**