

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G": DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
DR. MITHA LAL MEENA, ACCOUNTANT MEMBER

ITA.No.2682/Del./2016
Assessment Year 2012-13

ITO Ward 2(3) Gurgaon	vs.	Kulpreet Sunderlal S/p Shri J.P. Sunderlal, H.No. 109, Espace, Nirvana Country, Sector-50, Gurgaon. AIGPS4459R
(Appellant)		(Respondent)

For Revenue :	Shri Sanjay Tripathi, Sr. DR
For Assessee :	Shri P.K. Gaur, CA

Date of Hearing :	31.10.2018
Date of Pronouncement :	31.10.2018

ORDER

PER DR. MITHA LAL MEENA, A.M.

The Revenue has challenged the order dated 31.03.2016 passed by the Commissioner of Income Tax (Appeals)-2, Gurgaon for A.Y. 2012-13.

2. It was seen that tax effect of the appeal filed by the revenue is below Rs.20,00,000/-. Therefore, the Ld. DR was asked as to why the appeal filed by the revenue should not be dismissed due to low tax effect in the light of the recent CBDT Circular No.03/2018 dated 11th July,2018.

3. We have heard the parties. It is found that pursuant to the mandate of section 268A, the CBDT has issued Circular No. 03 of 2018, dated 11th July, 2018 with retrospective effect, revising the monetary limit to Rs.20,00,000/- for not filing appeals before the Tribunal. It is further found that as the tax effect involved in the instant appeal is less than Rs.20,00,000/-, the extant appeal is not maintainable. The Ld. DR, although supported the orders of the Assessing Officer, but could not controvert the fact that tax effect involved in this appeal is less than Rs.20,00,000/-.

4. Going by the prescription of the above stated Circular, it is observed that the Instruction is applicable to

the pending appeals also with retrospective effect and there is a clear-cut direction to the Department to withdraw or not press such appeals filed before the ITAT, wherein tax effect is less than Rs.20,00,000/-. We are, therefore, of the view that the Revenue should have either not filed the instant appeal before the Tribunal or withdrawn the same as the tax effect in this appeal is admittedly less than the prescribed limit, i.e., Rs. 20,00,000/- for not filing the appeal. Accordingly, we dismissed the instant appeal without going into merits of the cases.

5. The ld. DR has brought to our notice a letter dated 20.08.2018 of the Director (ITJ), CBDT, New Delhi addressed to All the Principal CCITs in which para no. 10 of the earlier Circular dated 11.7.2018, enumerating certain instances in which the appeals should be contested notwithstanding the low tax effect, has been revised. He, however, could not place any material on record to demonstrate that the above appeal is covered by the amended para of the Circular. Under these

circumstances, we dismissed the appeal filed by the Revenue and give liberty to the Department to file Miscellaneous Applications, if it is found that either the tax effect is more than the prescribed limit of Rs.20,00,000/- or the appeal gets covered in the revised para 10 of the letter dated 20.08.2018. Accordingly, the appeal of the Revenue stands dismissed.

6. In the result, the appeal of the Revenue stands dismissed.

Order pronounced in the open court on 31.10.2018

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER
 Dated 31.10.2018
 *Kavita Arora

Sd/-
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches : Delhi.

Date of dictation	31.10.2018
Date on which the typed draft is placed before the dictating Member	31.10.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	31.10.18
Date on which the fair order is placed before the Dictating Member for pronouncement	31.10.18
Date on which the fair order comes back to the Sr. PS/PS	31.10.18
Date on which the final order is uploaded on the website of ITAT	01.11.18
Date on which the file goes to the Bench Clerk	01.11.18
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	