



**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.70 & 71/ALLD/2016
Assessment Year: 2010-11 & 2011-12

Dy. CIT Central Circle Allahabad	v.	Shri Prakash Chandra Goel 24/8, Gaurav Nagar, Chopan Sonebhadra
		TAN/PAN:AJEPG7666H
(Appellant)		(Respondent)

C.O. No.11 & 12/ALLD/2017
[In ITA No.70 & 71/ALLD/2016]
Assessment Year: 2010-11 & 2011-12

Shri Prakash Chandra Goel 24/8, Gaurav Nagar, Chopan Sonebhadra	v.	Dy. CIT Central Circle Allahabad
TAN/PAN:AJEPG7666H		
(Cross Objector)		(Respondent)

Department by:	Shri Virendra Ojha, CIT (DR)		
Assessee by:	Shri Praveen Godbole, Advocate		
Date of hearing:	19	12	2018
Date of pronouncement:	19	12	2018

ORDER

PER A. D. JAIN, V.P.:

These appeals have been filed by the Revenue against the respective orders of the Id. CIT(A)-III, Lucknow, dated 25/1/2016 for the Assessment Years 2010-11 & 2011-12. The assessee has also filed cross objections in support of the orders of the Id. CIT(A).

2. We note that in these appeals filed by the Revenue, the tax effect on the income in dispute is less than Rs.20 lakhs.

3. The Central Board of Direct Taxes, vide Circular No. 3/2018 dated 11th July, 2018 file no.279 of Misc.142/2007-ITJ (PT), has issued the direction in supersession of the Instruction No.21/2015 dated 10th December, 2015 in consonance with the power entrusted under section 268A of the Income Tax Act, 1961 that no appeal should be filed before the Tribunal in case the tax effect does not exceed Rs.20 lakhs. The "tax effect" in this regard 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 issues against which appeal is intended to be filed. This Circular further states that tax will not include any interest thereon, unless the chargeability of interest itself is in dispute. In paragraph 13, which is reproduced as under, it has been mentioned in the Circular, that this instruction will apply even to pending appeals:

"13. This instruction 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. "

4. The tax effect in each of these appeals does not exceed Rs.20 lakhs. In view of this fact, as per the CBDT Circular No. 3/2018 dated 11th July, 2018 file no.279 of Misc.142/2007-ITJ(PT), the Revenue is not supposed to press these appeals. We, therefore, dismiss the appeals filed by the Revenue in limine, without going into the merits of the case, as in our opinion, the Circular issued by the CBDT is binding on the Departmental Authorities in view of the provisions of Section 268A(1) of the Income Tax Act, 1961. The said view has been taken by the Hon'ble

Supreme Court in the case of Navnit Lal Jhaveri vs. K. K. Sen, 56 ITR 198 (SC). We, accordingly, dismiss the appeals filed by the Revenue.

5. Since we have dismissed the appeals of the Revenue, the cross objections filed by the assessee, which are in support of the orders of the Id. CIT(A), have become infructuous and hence the same are liable to be dismissed.

6. In the result, both the appeals filed by the Revenue and the cross objections filed by the assessee stand dismissed.

Order pronounced in the open Court on 19/12/2018.

Sd/-
[T. S. KAPOOR]
ACCOUNTANT MEMBER

Sd/-
[A. D. JAIN]
VICE PRESIDENT

DATED:19th December, 2018

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar

1.	Date Of dictation	
2.	Date on which typed draft order is laced before the dictating Member	
2.A	Date on which typed draft order is placed before the other Member	
3.	Date on which the approved draft order comes to P.S/Sr.P.S	
4.	Date on which the Order is placed before the dictating Member for pronouncement	
5.	Date on which the Order comes back to P.S./Sr.P.S	
6.	Date of uploading, if not, reason for the same	
8.	Date on which the file goes to the Bench Clerk	
9.	Date on which order goes for xerox & endorsement	
10.	Date on which the file goes to the O.S.	
11.	Date on which the file goes to the Assistant Registrar for signature on the order	
12.	Date on which the file goes to despatch section for despatch	
13.	Date of despatch	