

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH 'B', CHANDIGARH

श्री संजय गर्ग, न्यायकि सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER
AND SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.669/Chd/2018

निर्धारण वर्ष / Assessment Year : 20009

The I.T.O., Ward 6(1), Mohali.	बनाम	Sh.Nirankar Singh, SCF-71, Phase-X, Mohali.
स्थायी लेखा सं./PAN NO: ABRPS0919A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Smt.Chanderkanta, Sr.DR
राजस्व की ओर से/ Revenue by : Shri Parikshit Aggarwal, CA

सुनवाई की तारीख/Date of Hearing : 15.01.2019

उदघोषणा की तारीख/Date of Pronouncement: 15.01.2019

आदेश/Order

Per Sanjay Garg, Judicial Member :

The present appeal has been filed by the department against the order of the Commissioner of Income Tax (Appeals)-2, Chandigarh (in short CIT(A)) dated 22.3.2018 relating to assessment year 2009-10, passed u/s 250(6) of the Income Tax Act, 1961 (in short referred to as 'Act').

2. At the outset, the Ld. AR has stated that tax effect involved in the present case is less than Rs. 20 lacs, the monetary limit revised by the CBDT vide its circular No. 3/2018 dated 11.07.2018 for filing appeal to the ITAT. The Ld. DR fairly admitted to the same. During the course of hearing, the Ld. DR was specifically asked if the present

appeal fell within any of the exclusionary clauses mentioned in the aforestated CBDT Circular. The Ld.DR categorically denied the same and reiterated that the appeal be withdrawn since it was covered by the aforesaid mentioned CBDT Circular.

In view of the same this appeal of the Revenue is liable to be dismissed. It may be noted that CBDT vide Circular No. 3/2018 dated 11.07.2018 has revised the monetary limit upto Rs.20 lacs for filing appeals by the Department before the Tribunal and further vide para 13 of the said Circular it has been clarified that said circular is applicable retrospectively to the pending appeals also. The Hon'ble Punjab & Haryana High Court in the case of "Principal CIT of Income Tax Vs. Surinder Kumar Singhal" ITA No 406-2016 (O&M) vide order dated 30.1.2017 while further relying upon the decision of the Hon'ble Supreme Court in the case of "CIT Vs. Dhanalekshmi Bank Ltd." (2015) 373 ITR 526 (SC), has dismissed the appeal of the Revenue without going into the merits due to low tax effect leaving the question of law open. In view of the CBDT Circular No. 03/2018 (supra) and in view of the categorical statement of the Ld.DR that the present appeal did not fall into any of the exclusionary clauses of the said circular and further in the light of the above referred to decision of the Hon'ble Jurisdictional Punjab & Haryana High Court (supra), the present appeal of the Revenue is dismissed due to low tax effect.

5. It is, however, clarified that the dismissal of the above appeal shall not be taken to be affirmation of the order of the CIT(A) on merits. The legal issue raised by the Revenue is being left open to be adjudicated in an appropriate case.

6. In the result, the Departmental appeal is dismissed.

Order pronounced in the Open Court.

Sd/-

अन्नपूर्णा गुप्ता

(ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

दिनांक /Dated: 15th January, 2019

रती

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

Sd/-

संजय गर्ग

(SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar