

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 952/JP/2018
निर्धारण वर्ष/Assessment Year : 2014-15

Assistant Commissioner of Income Tax, Circle-1, Kota.	बनाम Vs.	M/s Ahluwalia Erectors & Fabricators Pvt. Ltd., E-77, Road No. 4, I.P.I.A., Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAHCA 0089 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri Karni Dan (JCIT)
निर्धारिती की ओर से / Assessee by : Shri Hemang Gargieya (Adv)

सुनवाई की तारीख / Date of Hearing: 06/02/2019
उदघोषणा की तारीख / Date of Pronouncement : 08/02/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by revenue against the order of Id.CIT(A), Kota dated 02/05/2018 for the A.Y. 2014-15 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act). Following grounds have been taken by the revenue:

"On the facts and in the circumstances of the case, the Id. CIT(A) has erred in:-

(i) On the facts and circumstances of the case, the CIT(A) has erred in restricting the addition of Rs. 19,19,088/- out of total addition of Rs. 23,69,086/- made by the A.O. after rejection of books of account U/s 145(3).

(ii) On the facts and circumstances of the case, CIT(A) has erred in deleting the addition of Rs. 13,73,734/- made by the A.O. on account of difference in ITS data 26AS.

(iii) The appellant craves liberty to raise additional ground and to modify/amend the ground of appeal at the time of hearing.

2. At the time of hearing, the Id. AR of the assessee has raised an objection of maintainability of the appeal of the Revenue due to the tax effect not exceeding Rs. 20 lacs as per the CBDT Circular No. 3 of 2018 dated 11th July, 2018. The Id. A/R submitted that in the facts of the present case, tax effect in Revenue's appeal is stated to be below the prescribed limit of Rs. 20 lacs.

3. The Id. D/R has fairly submitted that the tax effect involved in the Revenue's appeal is less than 20 lacs which is prescribed threshold limit in terms of the CBDT Circular No. 3/2018 dated 11th July, 2018 issued in supersession of its earlier Circular No. 21 of 2015 dated 10.12.2015.

4. We have considered the rival contentions and carefully gone through the orders of the authorities below. It is observed that the demand/ tax effect in the Revenue's appeal in question is below Rs. 20.00 lacs . Under the powers vested by section. 268A(1) of the I T Act, CBDT has recently issued Circular No.3/2018 dated 11th July, 2018 (F No. 279/Misc. 142/2007-ITJ(Pt))instructing the authorities below that departmental appeal should not be filed before ITAT where the demand/tax effect does not exceed Rs. 20 lacs. The circular is specifically mentioned to be applicable for all pending appeals.

5. Subject to some exceptions, it is further directed by CBDT that all the departmental appeals pending before ITAT where the demand/tax effect is not exceeding than 20 lacs should be either withdrawn or not pressed by the departmental representatives.

6. The present appeal is not covered by any exceptions mentioned in the said CBDT circular. Since the tax demand in dispute in this departmental appeal is below the limit set out by CBDT for the appeal, the appeal of the revenue is not maintainable in view of CBDT Circular No. 3 of 2018 dated 11.07.2018. Accordingly the appeal of the Department is dismissed as not pressed/withdrawn.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 08th February, 2019.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 08th February, 2019

*Ranjan

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

1. अपीलार्थी / The Appellant- The ACIT, Circle-1, Kota.
2. प्रत्यर्थी / The Respondent- M/s Ahluwalia Erectors & Fabricators Pvt. Ltd., Kota.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 952/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar