

*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

**ITA No.2234/Kol/2018**  
Assessment Year:2013-14

Income Tax Officer, Ward-5(4), Aayakar Bhawan, 8 <sup>th</sup> Floor, P-7, Chowringhee Square, Kolkata-700069	<b>बनाम</b> / <b>V/s.</b>	M/s Vaibhshree Finvest Pvt. Ltd., Nilhat House, 6 <sup>th</sup> Floor, BBD Bag, R.N. Mukherjee Road, Kolkata- 001 [ <b>PAN No.AAACV 9148 D</b> ]
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri C.J. Singh, JCIT-SR-DR
प्रत्यर्थी की ओर से/By Respondent	Shri Ravi Tulsian, FCA
सुनवाई की तारीख/Date of Hearing	25-02-2019
घोषणा की तारीख/Date of Pronouncement	27-02-2019

**आदेश /O R D E R**

This Revenue's appeal for assessment year 2013-14, arises against the Commissioner of Income-tax (Appeals)-7, Kolkata's order dated 30.07.2018 passed in case No.1254/ CIT(A)-7/Kol/Ward-5(4)/17-18 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the sides. Case file perused.

2. It is seen at the outset that the tax effect on the disputed additions before us is less than Rs. 20 lacs in cases i.e. less than the prescribed revised threshold limit in CBDT's latest Circular No. 3/2018 dated 11.07.2018. It will be pertinent to reproduce the relevant portion of the said Circular No. 3/2018 dated 11.07.2018:-

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

No.	Appeals/SLP's in Income-tax matters	Monetary Limit (in Rs)
1.	Before Appellate Tribunal	20,00,000/-
2.	Before High Court	50,00,000/-
3.	Before Supreme Court	1,00,00,000/-

*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.*

*4. For this purpose, 'tax effect' 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 the issues against which appeal is intended to be filed (hereinafter referred to as 'disputed issues'). Further, 'tax effect' shall be tax including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against."*

3.1 We find that intention behind the Circular No3/2018 dated 11.07.2018 needs to be understood in the following perspective:-

*By passage of time, the money value has gone down, the cost of litigation expenses has gone up, number of assesses on the files of the department have been increased and consequently, the burden on the department is also increased to a tremendous extent. The Corridors of the Superior Courts are choked with huge pendency of cases. In this view of the matter, the CBDT has rightly taken a decision to revise the monetary limits in tune with the present value of money and with a view to reduce the litigation and offering relief to small tax payers. This is also in view of the fact that time and energy of the department could be used more productively and efficiently to catch hold of big fishes, who in turn would contribute more to the development of the country.*

3.2. On perusal of the Circular No. 3/2018 dated 11.07.2018 and the materials available on record, we do not see this case falling under any of the exceptions contemplated in the said circular *per se*. We also find that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. Hon'ble apex court in *Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)* has settled the law that CBDT's circulars are very much binding on revenue authorities. We thus hold that this Revenue's appeal raising sole issue of ₹1,08,351/- deserve to be dismissed in terms of low tax effect. We make it clear that it shall very much open for the Revenue to seek necessary rectification in

case it is found that any of these appeals involve operations of exception clauses in the tax effect circular as per law.

4. This Revenue's appeal is dismissed for involving lower than the prescribed minimum tax effect.

Order pronounced in open court on 27/02/2019

Sd/-  
(S.S. Godara)  
Judicial Member

Kolkata,

\*Dkp/Sr.PS

दिनांक:- 27/02/2019 कोलकाता

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-ITO Ward-5(4), 8<sup>th</sup> Floor, P-7, Chowringhee Sq. Kolkata-69
2. प्रत्यर्थी/Respondent-M/s Vaibhshree Finvest Pvt. Ltd., Nilhat House, 6<sup>th</sup> Floor, BBD Bag, R.N. Mukherjee Road, Kolkata-001
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
कोलकाता ।