

आयकर अपीलीय अधिकरण] पुणे न्यायपीठ "ए" पुणे में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE MS. SUSHMA CHOWLA, JM AND  
SHRI ANIL CHATURVEDI, AM

आयकर अपील स / ITA No.1167/PUN/2015

निर्धारण वर्ष / Assessment year : 2011-12

The Asst. Commissioner of Income Tax,  
Ahmednagar Circle, Ahmednagar.

..... अपीलार्थी /  
Appellant

बनाम v/s

Sahkarmharshi Bhausahab Thorat  
Sahkari Sakhar Karkhana Ltd.,  
A/p. Amrutnagar, Tal. Sangammer,  
Dist. Ahmednagar, Pin - 422 608.

..... प्रत्यर्थी /  
Respondent

PAN : AAAAS3893G.

Assessee by : Shri K. Srinivasan.

Revenue by : Shri S.B. Prasad, C.I.T.

सुनवाई की तारीख / Date of Hearing : 19.03.2019	घोषणा की तारीख / Date of Pronouncement: 19.03.2019
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**PER ANIL CHATURVEDI, AM :**

This appeal filed by the Revenue is emanating out of the order of Commissioner of Income Tax (A) - 2, Pune dated 30.01.2015 for the assessment year 2011-12.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is a Co-operative Society stated to be engaged in the business of manufacturing and sale of sugar and its by-products.

Assessee electronically filed its return of income for A.Y. 2011-12

on 29.09.2011 declaring total income of Rs.5,04,25,525/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 09.12.2013 and the total income was determined at Rs.45,75,34,548/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dt.30.01.2015 (in appeal No.PN/CIT(A)-2/ACIT/Cir-Ahmednagar/AN/127/2014-15) granted partial relief to the assessee. Aggrieved by the order of Ld.CIT(A), Revenue is now in appeal before us and has raised the following grounds :

*“1. The order of the Commissioner of Income Tax (Appeals) is contrary to law and to the facts and circumstances of the case.*

*2. The learned Commissioner of Income-tax (Appeals) grossly erred in deleting the addition of Rs.52,15,303/- on account of amount collected towards the Area Development Fund treated as income of the assessee by the Assessing Officer as the fund was not impressed with a specific legal obligation to be spent for specified purposes.*

*3. For these and such other grounds as may be urged at the time of hearing, the order of the Ld. Commissioner of Income Tax (Appeals) may be vacated and that of the Assessing Officer be restored.”*

3. Before us, at the outset, Ld.A.R. submitted that the appeal of the Revenue is not maintainable on account of low tax effect and therefore, the appeal of the Revenue be dismissed. Ld.D.R. did not object to the aforesaid contention made by the Ld.A.R.

4. We have heard the rival submissions and perused the material available on record. On perusing the grounds of appeal raised by the Revenue, we find that Revenue is aggrieved by the order of ld. CIT(A) in respect of the relief given by him. As per the recent announcement of Central Board of Direct Taxes (CBDT) dated 11.07.2018 (Circular No.3 of 2018), no Department appeals

are to be filed against relief given by Id. CIT(A) before the Income Tax Appellate Tribunal unless the tax effect, excluding interest, exceeds Rs.20 lakhs and it further states that the instructions will apply retrospectively to the pending appeals also. In the present case, since it is an undisputed fact that on the additions which are in dispute, the tax effect is less than Rs.20 lakhs and in the absence of any material placed on record by the Revenue to demonstrate that the issue in the present appeal is covered by exceptions provided in para 10 of the aforesaid CBDT Circular, we are of the view that the monetary limit prescribed by the instructions of the aforesaid CBDT Circular would be applicable to the present appeal of the Department. We therefore hold the present appeal of Revenue to be not maintainable on account of low tax effect and accordingly dismiss the appeal of Revenue without expressing any opinion on merits of the case. However, in case there is any error in the computation of the tax effect involved or if for any reason, the aforesaid CBDT Circular is not applicable, it would be open to the Revenue to seek revival of the appeal. **Thus, the grounds of the Revenue are dismissed.**

5. **In the result, the appeal of Revenue is dismissed.**

Order pronounced in open Court on 19<sup>th</sup> day of March, 2019.

**Sd/-**

**(SUSHMA CHOWLA)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**

**(ANIL CHATURVEDI)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे Pune; दिनांक Dated : 19<sup>th</sup> March, 2019.

Yamini

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-2, Pune.
4. The CIT-1, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" / DR,  
ITAT, "A" Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER**

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.