



IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR

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

ITA No.132/JAB/2018
Assessment Year:2015-16

Asstt. C.I.T. Circle 2(1) Jabalpur	v.	Shri Kirti Kumar Tiwari 267, Garha Pahatak Jabalpur
		TAN/PAN:ACWPT4759P
(Appellant)		(Respondent)

C.O. No.14/JAB/2018
[In ITA No.132/JAB/2018]
Assessment Year:2015-16

Shri Kirti Kumar Tiwari 267, Garha Pahatak Jabalpur	v.	Asstt. C.I.T. Circle 2(1) Jabalpur
TAN/PAN:ACWPT4759P		
(Cross Objector)		(Respondent)

Department by:	Shri P. D. Chougale, D.R.		
Assessee by:	Shri L. L. Sharma, Advocate		
Date of hearing:	02	04	2019
Date of pronouncement:	03	04	2019

ORDER

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

This is Revenue's appeal against the order of the Id. CIT(A)-1, Jabalpur, dated 27/3/2018, for the Assessment Year 2015-16. The assessee has filed cross objection.

2. At the outset, the Id. A.R. of the assessee submitted that in the appeal 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.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 this appeal 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 this appeal. We, therefore, dismiss the appeal 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 Department 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 appeal filed by the Revenue.

5. At the time of hearing, the Id. A.R. of the assessee has also made a request to withdraw the cross objection filed on behalf of the assessee. Considering the request of the Id. A.R. of the assessee, the cross objection of the assessee is dismissed as withdrawn.

6. In the result, the appeal filed by the Revenue and the cross objection filed by the assessee stand dismissed.

Order pronounced in the open Court on 03/04/2019.

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

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

DATED:03/04/2019

JJ:0204

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