

आयकर अपीलिय अधिकरण] पुणे न्यायपीठ "बी" पुणे में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI ANIL CHATURVEDI, AM AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील स / ITA No.37/PUN/2017

निर्धारण वर्ष / Assessment year : 2012-13

The Dy. Commissioner of Income Tax,  
Central Circle – 1(1), Pune.

..... अपीलार्थी /  
Appellant

बनाम v/s

Rasiklal Manikchand Dhariwal (HUF),  
Manikchand House, Plot No.100/101,  
D. Kennedy Road, Behind Hotel  
Le Meradien, Pune – 411 001.

..... प्रत्यर्थी /  
Respondent

PAN : AABHD5583L.

Assessee by : Shri Ch. Naresh.  
(Adjournment refused).

Revenue by : Shri Pankaj Garg.

सुनवाई की तारीख / Date of Hearing : 02.05.2019	घोषणा की तारीख / Date of Pronouncement: 03.05.2019
---	---

**PER ANIL CHATURVEDI, AM :**

This appeal filed by the Revenue is emanating out of the order of Commissioner of Income Tax (A) – Pune, 11 dated 27.10.2016 for A.Ys. 2004-05 and 2006-07 to 2013-14.

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

Assessee is an HUF. It filed its return of income for A.Y. 2011-12 on 24.09.2012 declaring total income of Rs. 41,68,09,580/-. The case was selected for scrutiny and thereafter assessment was framed

u/s 143(3) of the Act vide order dated 30.11.2015 and the total income was determined at Rs.42,33,80,508/- and agricultural income at Rs.73,441/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A) who vide order dt.27.10.2016 (in appeal No.PN/CIT(A)-11/DCIT, Cen. Cir.1(1), Pune/147/2014-15) 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. Whether on the facts and in the circumstances of the case, the learned CIT(A) was justified in restricting the disallowance under Rule 8D(2)(iii) to Rs.2 lakhs in each year ‘ad hoc basis’ without appreciating that Section 14A(2) mandates that the amount of expenditure to be disallowed is to be determined as per the method prescribed in Rule 8D of the I.T. Rules, 1962 and when Rule 8D(2) uses the word “shall” and therefore computation of disallowance is also mandatory ?*

*2. The order of CIT(A) may be vacated and that of the Assessing Officer be restored.”*

3. On the date of hearing, adjournment application was filed by the Ld.A.R. seeking adjournment in the case. Ld.D.R. before us fairly admitted that the tax effect involved in the present appeal of Revenue is within the monetary limit prescribed by CBDT Circular dated 11.07.2018. In view of the aforesaid submission of Ld.D.R. the adjournment was refused and we therefore proceed to decide the appeal ex-parte qua the assessee.

4. We have heard the Ld.D.R. 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 addition which is 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 on 3<sup>rd</sup> day of May, 2019.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ANIL CHATURVEDI)**  
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 3<sup>rd</sup> May, 2019.

Yamini

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-11, Pune.
4. The Pr. CIT(Central), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" / DR,  
ITAT, "B" Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER**

// True Copy //

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