

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 VIKAS AWASTHY, JM

आयकर अपील सं / ITA No.1115/PUN/2017

निर्धारण वर्ष / Assessment year : 2007-08

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

..... अपीलार्थी /
Appellant

बनाम v/s

M/s. Alcob India Pvt. Limited
(M/s. Alcob Systems Pvt. Ltd.),
Sai Gaurav, Jan Mohammad Street,
Near Babajan Chowk,
Camp, Pune – 411 015.

..... प्रत्यर्थी /
Respondent

PAN : AAECA8239L.

Assessee by : Shri Umesh Patwardhan.

Revenue by : Shri Pankaj Garg

सुनवाई की तारीख / Date of Hearing : 11.07.2019	घोषणा की तारीख / Date of Pronouncement: 12 .07.2019
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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) – Pune – 1 dated 16.02.2017 for A.Y. 2007-08.

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

Assessee is a Company, who filed its original return of income for A.Y. 2007-08 on 22.10.2007 declaring total income of Rs.28,72,860/-. The case was selected for scrutiny and assessment was framed u/s 143(3) of the Act dt.30.11.2009 accepting the return

of income filed by the assessee. Thereafter, the case was re-opened by issuing notice u/s 148 of the Act on 30.03.2012 and consequently assessment was framed u/s 143(3) r.w.s. 147 of the Act vide order dated 15.03.2013 and the total taxable income was determined at Rs. 1,51,60,632/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A) who vide order dt.16.02.2017 (in appeal No.CIT(A), Pune-1/10089/2013-14) 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 Ld. Commissioner of Income Tax (Appeals) is contrary to law and on facts and in circumstances of the case.

2. The Ld. Commissioner of Income Tax (Appeals) erred on the facts and in the circumstances of the case and in law in accepting reconciliation on sale of Rs.39,26,228/- which was not supported by the evidence and proper document.

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 I 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. but however supported the order of AO.

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, it is an undisputed fact that on the addition which is in dispute, the tax effect is less than Rs.20 lakhs. 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 12th day of July, 2019.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 12th July, 2019.

Yamini

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. CIT(A)-1, Pune.
4. Pr. CIT-1, 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.