

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 स / ITA No.1120/PUN/2017  
निर्धारण वर्ष / Assessment year : 2012-13

The Dy.Commissioner of Income Tax,  
Circle – 11, Pune.

..... अपीलार्थी /  
Appellant

बनाम v/s

Indo Global Buildcon Private Limited,  
Office No.401/402, Great Eastern  
Plaza, Yerawada, Pune – 411 006.

..... प्रत्यर्थी /  
Respondent

PAN : AACCI1008H.

Assessee by : Shri Kishore Phadke.

Revenue by : Shri K.K. Ojha.

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 10.02.2017 for A.Y. 2012-13.

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

Assessee is a Company, who electronically filed its return of income for A.Y. 2012-13 on 25.09.2012 declaring total income of Rs.74,69,004/-. The case was selected for scrutiny under CASS and thereafter assessment was framed u/s 143(3) of the Act vide order

dated 27.03.2015 and the total income was assessed at Rs.1,25,51,160/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A) who vide order dt.10.02.2017 (in appeal No.CIT(A), Pune-1/1027/2015-16) 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. . CIT(A) erred on the facts and circumstances of the case in directing to treat the rental income under the head "House Property Income" even though the assessee company was engaged in the business of leasing and development of immovable properties and the said property was let out with the intention to earn commercial gains*

*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 lower authorities.

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 ld. 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 12<sup>th</sup> day of July, 2019.

**Sd/-**

**(VIKAS AWASTHY)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**

**(ANIL CHATURVEDI)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे Pune; दिनांक Dated : 12<sup>th</sup> 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.