

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTNANT MEMBER  
AND  
SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.2870/Del/2018  
Asstt. Year:2012-13

|   |     |   |
|---|-----|---|
| Income Tax Officer, Ward-32(3), New Delhi | Vs. | Anwar Hussain Malik,<br>1079-E, Ward No. 1,<br>Mehrauli, New Delhi<br><br><b>PAN-AMGPM9133N</b> |
| <b>(Appellant)</b>                        |     | <b>(Respondent)</b>   |

|                       |                          |
|-----------------------|--------------------------|
| Department by:        | Smt. Rinku Singh, Sr. DR |
| Assessee by :         | None                     |
| Date of Hearing       | 22/7/2019                |
| Date of pronouncement | 22/7/2019                |

**ORDER**

**PER LALIET KUMAR, J.M.**

This appeal filed by the Revenue is directed against the order of Ld. Commissioner of Income Tax (Appeals)-31, New Delhi dated 28.02.2018 pertaining to the assessment year 2012-13. Following grounds have been raised in the appeal are as under:-

1. *Whether Ld. CIT (A) was justified in deleting the addition made by the AO i.r.o. outstanding liabilities despite the fact that the assessee could neither 'prove the identity, genuineness and creditworthiness of the parties nor could provide any details/ documentary evidences to justify their existence, and thus these were akin to ceased/ non existing liabilities.*

*2. Whether Ld. CIT (A) was justified in relying upon the assessee's submission that confirmation from the parties was provided during the assessment proceedings for previous years, ignoring the fact that principal of res judicata is not applicable in the case of assessment proceedings.*

*3. Whether Ld. CIT (A) was justified in placing complete reliance on the remand report of the AO which was submitted through the Joint Commissioner (being the supervisory authority) and ignoring the comments of Joint Commissioner, who had clearly brought out fallacies in the contentions of the assessee to justify the outstanding liabilities.*

*4. Whether Ld. CIT (A) was justified in accepting the loan from Ms. Sakiran Ahmed, as explained ignoring that the amount of Rs.15 Lakh was given by Ms. Sakiran Ahmed out of the unaccounted income of assessee through a sham property transaction between the assessee and his mother.*

*5. Whether Ld. CIT (A) was justified in treating the loan amount from the mother as explained, ignoring the statement of mother given before the Assessing Officer, wherein she denied the contention of the assessee.*

2. From the perusal of the grounds of appeal it is apparent that the addition deleted by the ld. CIT(A) as per paragraph 5.3 are to the tune of Rs. 60,50,000/- and therefore, the tax effect is less than the upper limit prescribed by the CBDT i.e. less than 20,00,000/-. The CBDT vide Circular No. 3/2018 dated 11th July, 2018 had instructed that the tax appeal is under limit of Rs. 20,00,000/- and the appeal is withdrawal.

3. During the course of hearing, the learned Sr. DR although supported the order of the AO, but could not controvert the fact that tax effect involved in this appeal is less than Rs. 20,00,000/-. Therefore, the present appeal of the Revenue is not maintainable in view of recent Circular of CBDT No. 3/2018 dated 11th July, 2018, whereby the monetary limit of tax effect for not filing appeals before the Tribunal has been revised to Rs. 20,00,000/-.

4. Having considered the rival submissions and the material available on record, including the above circular, we find that the above circular of CBDT on pecuniary limit has been issued in

supersession of earlier CBDT Circular No. 21 of 2015 dated 10.12.2015, revising the monetary limit of tax effect from Rs. 10,00,000/- to Rs. 20,00,000/-. These instructions of CBDT have now statutory force within the provisions of section 268A and are made applicable to the pending appeals also by virtue of para 13 of the Circular.

5. This Circular contains clear instructions to the Department to withdraw or not to press such appeals filed before the ITAT wherein tax effect involved does not exceed Rs. 20,00,000/-. It is not the case of the Revenue that the present appeal comes within the sweep of exclusion clauses as given in para No. 10 & 11 of the said Circular. Thus, going by the prescription of the afore-noted CBDT instructions, and without going into merits of the case, we dismiss the instant appeal filed by the Revenue, being not maintainable, as the tax effect involved in this appeal is less than Rs. 20.00 lacs.

6. In the result, the appeal of the Revenue stands dismissed *in limine*.

Order pronounced in the Open Court on 22<sup>nd</sup> July, 2019.

**Sd/-**  
**(N.K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Dated: 22/07/2019

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

|  | Date       |
|--|------------|
| Draft dictated on                                | 22.07.2019 |
| Draft placed before author                       | 22.07.2019 |
| Draft proposed & placed before the second member |            |
| Draft discussed/approved by Second Member.       |            |
| Approved Draft comes to the Sr.PS/PS             |            |
| Kept for pronouncement on                        |            |
| File comes back to PS/Sr. PS                     |            |
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| File sent to the Bench Clerk                     |            |
| Date on which file goes to the AR                |            |
| Date on which file goes to the Head Clerk.       |            |
| Date of dispatch of Order.                       |            |