

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I(1)' : NEW DELHI

BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

ITA No.646/Del/2017
Assessment Year : 2008-09

Assistant Commissioner of
Income Tax,
Circle-76(1),
R.No.307, Aayakar Bhawan,
Lakshmi Nagar,
Delhi – 110 092.
(Appellant)

Vs. M/s Trading Engineers
(International) Ltd.,
UM House, Plot No.35P,
Sector-44,
Gurgaon – 122 002.
PAN : AA ACT3870G.
(Respondent)

Appellant by : Shri Vivek Bansal, Advocate.
Respondent by : Ms. Nidhi Sharma, Senior DR.

Date of hearing : 31.07.2019
Date of pronouncement : 31.07.2019

ORDER

PER PRAMOD KUMAR, VP :

This appeal by the Revenue for the assessment year 2008-09 is directed against the order of learned CIT(A)-41, New Delhi dated 3rd November, 2016.

2. At the time of hearing before us, we find *prima-facie* that the appeal of the Revenue is hit by CBDT instruction no.3 of 2018 dated 11.08.2018 whereby the Board has prohibited its subordinate authorities from filing of the appeal before the Tribunal against the order of the CIT(A) where the tax effect by virtue of the relief given by the CIT(A) is less than ₹20 lakhs. The instructions have been made applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also. In the present case, the tax effect on the quantum disputed by the Revenue does not exceed Rs.20 lakhs. Therefore, the present appeal of the Revenue is

hit by the CBDT Circular and hence not maintainable. Further, learned Departmental Representative has not pointed out whether the case of the Revenue falls within the ambit of exceptions provided in the Circular or not. Thus, keeping in view the above CBDT circular and provisions of section 268A of the Income Tax Act, we are of the view that the present appeal of the Revenue deserves to be dismissed. It is accordingly dismissed.

3. However, it is observed that, in case on re-verification at the end of the Assessing Officer it comes to the notice that the tax effect is more or Revenue's case falls within the ambit of exceptions provided in the Circular, then the Department will be at liberty to approach the Tribunal for recall of this order. Such application should be filed within the time period prescribed in the Act. In view of the above, the appeal of the Revenue is dismissed due to low tax effect.

4. In the result, the appeal of the Revenue is dismissed.
Decision pronounced in the open Court on 31st July, 2019.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(PRAMOD KUMAR)
VICE PRESIDENT

VK.

Copy forwarded to: -

1. Appellant : Assistant Commissioner of Income Tax,
Circle-76(1), R.No.307, Aayakar Bhawan,
Lakshmi Nagar, Delhi – 110 092.
2. Respondent : M/s Trading Engineers (International) Ltd.,
UM House, Plot No.35P, Sector-44,
Gurgaon – 122 002.
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar