

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'A', NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA Nos.5372 & 5373/Del/2016
Assessment Years: 2010-11 & 2011-12

ACIT, Central Circle 31, New Delhi	Vs.	M/s. Ahluwalia Contracts India Ltd., A-177, Okhla Indl. Estate, Phase-1, New Delhi
PAN :AABCA4304K		
(Appellant)		(Respondent)

And

C.O. Nos.360 & 361/Del/2016
[In ITA No. 5372 & 5373/Del/2016]
Assessment Year: 2010-11 & 2011-12

M/s. Ahluwalia Contracts India Ltd., A-177, Okhla Indl. Estate, Phase-1, New Delhi	Vs.	ACIT, Central Circle 31, New Delhi
PAN :AABCA4304K		
(Appellant)		(Respondent)

Department by	Shri Manoj Kumar Mahar, Sr.DR
Assessee by	Shri Vishal Sehgal, FCA

Date of hearing	05.08.2019
Date of pronouncement	09.08.2019

ORDER

PER BENCH:

These appeals by the Revenue and Cross objections by the assessee arise out of the orders passed by the CIT(A) in relation to the captioned assessment years.

2. During the course of hearing, the Ld. Sr. DR submitted that no doubt tax effect involved in these appeals are less than Rs.20 lakhs, thus, bound by the departmental instruction, the appeals have to be withdrawn. However, attention was invited to para 10 of the Circular No. 3/2018, dated 11th July, 2018, which has been modified by Circular dated 20th August, 2018 and in terms of the said modification the Departmental Representatives made a prayer that permission to pray for recall of the order may be granted in case any of the conditions in the reports made available by the A.O. subsequently, show that the issues were required to be contested. The modified para is extracted hereunder:

“10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or*
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or*
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or*
- (d) Where addition relates to undisclosed foreign income/undisclosed foreign assets (including financial assets)/undisclosed foreign bank account.*
- (e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI/ED/ DRI/ SFIO/ Directorate General of GST Intelligence (DGGI).*
- (f) Cases where prosecution has been filed by the Department and is pending in the Court. ”*

3. Going by the prescription of Circular No. 3/2018, dated 11th July, 2018, we are of the view that the Revenue should have either not filed the instant appeal before the Tribunal or withdrawn the same as the tax effect in the appeal is admittedly less than the prescribed limit, i.e., Rs. 20,00,000/-

for not filing the appeals. Accordingly, we dismiss the appeals filed by the Revenue without going into merits of the case. However, it is made clear that the Department is at liberty to file Miscellaneous Application for recalling of the order, if the tax effect is found to be more than the prescribed limit of Rs.20,00,000/- or any of the conditions etc., as available in the amendment carried out in para 10 of Circular No. 3/2018, dated 20.08.2018, is made out. The Cross Objections filed by the assesseees which are in support of the respective impugned orders, are also dismissed as infructuous.

5. In the result, all the appeals of the Revenue and Cross Objections of the assessee stand dismissed.

Order is pronounced in the open court on 9th August, 2019.

Sd/-
[AMIT SHUKLA]
JUDICIAL MEMBER

Sd/-
[O.P. KANT]
ACCOUNTANT MEMBER

Dated: 9th August, 2019.

RK/-[d.t.d.s]

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi