

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,  
NEW DELHI

BEFORE SHRI A.D. JAIN, VICE PRESIDENT, AND  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 3982/DEL/2016  
[A.Y 2012-13]

The A.C.I.T.  
Circle - II  
Ghaziabad

Vs.

Shri Vinay Sharma  
503, Gulmohar Enclave  
Silver Palm - 1, Nehru Nagar  
Ghaziabad

PAN No: AQYPS 8948 P

[Appellant]

[Respondent]

Date of Hearing : 14.08.2019  
Date of Pronouncement : 14.08.2019

Assessee by : Shri Raghav Arora, CA

Revenue by : Shri N.K. Bansal, Sr. DR

**ORDER**

**PER A.D. JAIN, VICE PRESIDENT:**

This appeal by the Revenue is preferred against the order of the Commissioner of Income Tax [Appeals], Ghaziabad dated 28.04.2016 pertaining to assessment year 2012-13.

2. The Revenue is aggrieved by the allowing of deduction u/s 54F of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'] amounting to Rs. 77,78,354/-.

3. A perusal of the grievance of the revenue shows that the tax effect would be less than Rs. 50 lakhs and hence the appeal has to be dismissed in the light of the CBDT Circular No. 17/2019 dated 08.08.2019.

4. The Id. DR vehemently stated that this Circular is not applicable to the existing appeals as it is prospective in nature.

5. In our considered opinion, the language of the Circular 17/2019 dated 08.08.2019 clearly shows that it has referred to the earlier Circular 3/2018 and its amendment dated 20.08.2018 vide which monetary limit for filing of Income tax appeals by the department before the ITAT, Hon'ble High Court, SLP/and appeals before the Hon'ble Supreme Court have been specified. It would be pertinent to refer to the Circular No. 17/2019 which reads as under:

"Circular No. 17/2019

New Delhi. 8th August 2019

Subject: - Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 - Measures for reducing litigation.-

Reference is invited to the Circular No.3 of 2018 dated 11.07.2018 (the Circular) of Central Board of Direct Taxes (the Board) and its amendment dated 20th August. 2018 vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal. High Courts and SLPs/appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.

2. As a step towards further management of litigation. it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

<u>S.No.</u>	<u>Appeals/SLPs in IT matters</u>	<u>Monetary Limit (Rs.)</u>
1.	Before Appellate Tribunal	50,00,000/-
2.	Before High Court	1,00.00.000/-
3.	Before Supreme Court	2.00.00,000/-

3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:

"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in

which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgement involves more than one assessee. each assessee shall be dealt with separately."

4. The said modifications shall come into effect from the date of issue of this Circular.

5. The same may be brought to the notice of all concerned.

6. This issues under section 268A of the Income-tax Act, 1961.

7. Hindi version will follow. "

6. As mentioned elsewhere by Circular 17/2019, the CBDT has further enhanced the monetary limit for filing of appeals and the same is amendment to Circular 3/2018. We find that Clause 13 of Circular 3/2018 reads as under:

*"The Circular will apply to SLPs/appeals/cross objections /references to be filed henceforth in Hon'ble Supreme Court/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/cross objections/references. Pending appeals*

*below the specified tax limits in para 3 above may be withdrawn/not pressed.”*

7. In light of the above, we are of the considered opinion that Circular No. 17/2019 shall also apply retrospectively to pending appeals. In that view of the matter, the appeal filed by the Revenue stand dismissed.

8. In the result, the appeal filed by the Revenue in ITA No. 3982/DEL/2016 stands dismissed.

**The order is pronounced in the open court on 14.08.2019.**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

**Sd/-**

**[A.D. JAIN]  
VICE PRESIDENT**

Dated: 14<sup>th</sup> August, 2019

VL/

Copy forwarded to:

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

Asst. Registrar  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	