

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER,  
AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 4931/DEL/2016  
[A.Y 2009-10]

The ACIT  
Circle - 50(1)  
New Delhi

Vs.

M/s Rajan Berry, B-67, Naraina  
Indl Area, Phase-2, New Delhi

PAN No: AAIPB0802B

[Appellant]

[Respondent]

Date of Hearing : 19.08.2019  
Date of Pronouncement : 20.08.2019

Revenue by : Sh. B.S. Purohit, Sr. DR

Assessee by : Sh. Rahul Khare, Advocate

**ORDER**

**PERSE PAVAN KUMAR GADALE, JUDICIAL MEMBER:**

The Revenue has filed an appeal against the order of the Commissioner of Income Tax [Appeals]-17 New Delhi dated 04.07.2016 for the assessment year 2009-10.

2. On perusal of material and grounds of appeal of the revenue we find tax effect is less than Rs. 50 lakhs. Therefore, the Revenue appeal has to be dismissed based on the CBDT Circular No. 17/2019 dated 08.08.2019.

3. Whereas the ld. DR vehemently submitted that the Circular is prospective in nature and is not applicable to the present appeal.

4. We are of the substantive opinion that the Circular No. 17/2019 dated 08.08.2019 has referred to the earlier Circular No. 3/2018 of 11.07.2018 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 proper to refer to the Circular No. 17/2019 which is read 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. "

5. Further in the Circular No. 17/2019 dt. 8.8.2019 the CBDT has further enhanced the monetary limit for filing the appeals by way of an amendment in para 3 of Circular No. 3/2018. Whereas in respect of applicability of Circular to pending appeals. We consider it proper to refer the Clause 13 of Circular No. 3/2018 dt. 11.7.2018 which is read 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.”*

6. Considering the above Circular and Clauses disclosed above, we are of the substantive opinion that Circular No. 17/2019 dt. 8.8.2019 shall apply Retrospectively to the pending appeals. Accordingly the Revenue appeal is dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

**The order is pronounced in the open court on 20.08.2019.**

Sd/-  
[N.K. BILLAIYA]  
ACCOUNTANT MEMBER

Sd/-  
[PAVAN KUMAR GADALE]  
JUDICIAL MEMBER

Dated: 20<sup>th</sup> August, 2019

SH

Copy forwarded to:

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

Asst. Registrar  
ITAT, New Delhi

Date of dictation	19.8.2019
Date on which the typed draft is placed before the dictating Member	19.8.2019
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	20.8.2019
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	