

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'B': NEW DELHI)**

**BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER &
MS. S.KAMBLE, JUDICIAL MEMBER**

**ITA No:-4343/Del/2016
(Assessment Year: 2011-12)**

| | | |
|--------------------------------------|----|--|
| ACIT, Circle-29(1), New Delhi. | Vs | M/s. Combi Enterprises, F-89/22, Okhla Industrial Area, Ph-I, New Delhi-110020. PAN-AAAF40480 |
| APPELLANT | | RESPONDENT |
| Appellant by | | Ms. Ashima Neb, Sr.DR |
| Respondent by | | Sh. Nilendra Nahan, AR |
| Date of Hearing | | 19.08.2019 |
| Date of Pronouncement | | 19.08.2019 |

ORDER

PER R.K.PANDA, AM

This appeal filed by the Revenue is directed against the order dated 31.05.2016 passed by Ld.CIT(A)-10, New Delhi pertaining to assessment year 2011-12. The Revenue in its various grounds of appeal has challenged the order of Ld.CIT(A) in deleting the addition of Rs.80,27,450/- made by the AO u/s 40(a)(ia) of the Income tax Act, 1961.

2. Ld. Counsel for the assessee, at the outset, submitted that the tax effect involved in the grounds raised by the Revenue is below Rs.50 lacs. Referring to the decision of Ahmedabad Bench of the

Tribunal in the case of *ITO vs Dinesh Madhavlal Patel in ITA No.1398/Ahd/2004* vide order dated 14.08.2019, he submitted that the Tribunal after considering the recent CBDT Circular dated 08.08.2019, raising the monetary limit for filing of appeal by the Revenue before the Tribunal to Rs.50,00,000/- has held that this circular is also applicable to the pending appeals in addition to the appeals to be filed henceforth. He accordingly, submitted that since the tax effect involved in the grounds raised by the Revenue is admittedly below Rs.50,00,000/-, therefore, in view of the recent CBDT Circular dated 08.08.2019, the appeal filed by the Revenue is not maintainable and has to be dismissed.

3. Ld. DR fairly conceded that the tax effect involved in the grounds raised by the Revenue is below Rs.50,00,000/-

4. We have considered the rival submissions and perused the material available on record. It is an admitted fact that the tax effect involved in the grounds raised by the Revenue is below Rs.50,00,000/-. We find the Ahmedabad Bench of the Tribunal in the case of *Dinesh Madhavlal Patel (Supra)* after considering the CBDT Circular dated 08.08.2019, has held that the said circular is applicable to the pending appeals in addition to the appeals to be filed henceforth. The relevant portion of the order from para 5 to 9 reads as under:-

5. *“Having considered the rival submissions and having perused the material on record, we do not have slightest of hesitation in holding that the concession extended by the CBDT not only applies to the appeals to be filed in future but it is also equally applicable to the appeals pending for disposal as on now. Our line of reasoning is this. The circular dated 8th August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular no 3 of 2018 (and subsequent amendment thereto), and all it does is to replace paragraph nos. 3 and 5 of the said circular. This is evident from the following extracts from the circular dated 8th August 2019:*

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:

| <i>S.No.</i> | <i>Appeals/SLPs in Income-tax matters</i> | <i>Monetary Limit (Rs.)</i> |
|--------------|---|-----------------------------|
| <i>1</i> | <i>Before Appellate Tribunal</i> | <i>50,00,000</i> |
| <i>2</i> | <i>Before High Court</i> | <i>1,00,00,000</i> |
| <i>3</i> | <i>Before Supreme Court</i> | <i>2,00,00,000</i> |

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.

6. Clearly, all other portions of the circular no. 3 of 2018 (supra) have remained intact. The portion which has remained intact includes paragraph 13 of the aforesaid circular which is as follows:

13. This Circular will apply to SLPs/ appeals/ cross objections/references to be filed henceforth in SC/HCs/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 view of the above discussions, we hereby hold that the relaxation in monetary limits for departmental appeals, vide CBDT circular dated 8th August 2019 (supra) shall be applicable

to the pending appeals in addition to the appeals to be filed henceforth.

8. Learned Commissioner (DR) then submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeals and restoration of the appeals in the cases (i) in which it can be demonstrated that the appeals are covered by the exceptions, and (ii) which are inadvertently included in this bunch of appeals, wherein the tax effect, in terms of the CBDT circular (supra), exceeds Rs 50,00,000. None opposes this prayer; we accept the same. We make it clear that the appellants shall be at liberty to point out the cases which are wrongly included in the appeals so summarily dismissed, either owing to wrong computation of tax effect or owing to such cases being covered by the permissible exceptions- or for any other reason, and we will take appropriate remedial steps in this regard.

9. In the light of the above discussions, all the appeals stand dismissed as withdrawn. As the appeals filed by the Revenue are found to be non-maintainable and as all the related cross-objections of the assessee arise only as a result of those appeals and merely support the order of the CIT(A), the cross objections filed by the assessee are also dismissed as infructuous. Ordered, accordingly.”

5. Following the decision of the Ahmedabad Bench of the Tribunal in the case of ITO vs Dinesh Madhavlal Patel (cited supra), we hold that the appeal filed by the Revenue is not maintainable in view of the tax effect being below Rs.50,00,000/-. Accordingly, the appeal filed by the revenue is dismissed.

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

Order pronounced in the open court on 19th day of August, 2019.

Sd/-

(S.KAMBLE)
JUDICIAL MEMBER

Sd/-

(R.K.PANDA)
ACCOUNTANT MEMBER

Dated: 19.08.2019
** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI