

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : B : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.5679/Del/2016
Assessment Year: 2007-08

ITO,
Ward-6(2),
CR Building,
New Delhi.

Vs Classic Postik Aahar Pvt. Ltd.
53/3-B, Prahladpur Banger,
New Delhi.

PAN: AACCC1165B

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Ms Ashima Neb, Sr. DR
Date of Hearing	:	20.08.2019
Date of Pronouncement	:	20.08.2019

ORDER

PER R.K. PANDA, AM:

This appeal filed by the Revenue is directed against the order dated 28th July, 2016 of the CIT(A)-2, New Delhi, relating to assessment year 2007-08.

2. The only effective ground raised by the Revenue reads as under:-

“1. Whether on the facts and in the circumstances of the case and in law, the Id.CIT(A) has erred in deleting the addition of Rs.96,00,000/- on account of unexplained cash credit u/s 68 of the IT Act, 1961, ignoring the fact that the assessee had failed to discharge its onus of establishing the identity, genuineness and credit worthiness of source of funds received.”

3. After hearing the Id. DR and on perusal of the orders of the authorities below, we find the tax effect involved in the ground raised by the Revenue is below Rs.50 lakhs. Therefore, in view of the CBDT Circular No.17/2019 dated 8th August, 2019, the appeal filed by the Revenue is not maintainable. The Ahmedabad Bench of the Tribunal in the case of *ITO vs. Dinesh Madhavlal Patel vide ITA No.1398/Ahd/2004, order dated 14th August, 2019*, has held that the said Circular is applicable even to the pending appeals in addition to the appeals to be filed henceforth. The relevant portion of the order of the Tribunal from para 5 to 7 of the order 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:

S.No.	Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.)
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.

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.”

4. Since, in the instant case, admittedly, the tax effect involved in the ground raised by the Revenue is below Rs.50 lakhs, therefore, following the decision of the Ahmedbad Bench of the Tribunal in the case of *ITO vs. Dinesh Madhavlal Patel(supra)* wherein it is held that the said Circular is applicable even to pending

appeals, we hold that the appeal filed by the Revenue is not maintainable and has to be dismissed. Accordingly, the appeal filed by the Revenue is dismissed.

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

The decision was pronounced in the open court on conclusion of the hearing today itself i.e., on 20.08.2019.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 20th August, 2019

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Copy forwarded to

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

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMFBER

Asstt. Registrar, ITAT, New Delhi