

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.1159/Del/2015  
Assessment Year: 2010-11

ITO (Exemptions),  
Trust Ward-1(1),  
Delhi.

Vs Evangelical Fellowship of India,  
805/92, Deepali Building,  
Nehru Place,  
New Delhi.

PAN: AAATE0025F

(Appellant)

(Respondent)

Assessee by : Shri V.K. Tulsian, Advocate  
Revenue by : Ms Nidhi Srivastava, CIT, DR  
Date of Hearing : 21.08.2019  
Date of Pronouncement : 21.08.2019

ORDER

PER R.K. PANDA, AM:

This appeal filed by the Revenue is directed against the order dated 22<sup>nd</sup> December, 2014 of the CIT(A)-40, New Delhi, relating to assessment year 2010-11.

2. The grounds raised by the Revenue read as under:-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding the society is religious society disregarding the fact that the society has been registered u/s 12A of the Act as charitable institution."

2. "On the facts and in the circumstances of the case and in law, the Ld,

CIT(A) has erred in allowing exemption u/s. 11 of the Income Tax Act ignoring that the assessee society has violated the provision of section 13(1)(b) of the Act"

3. "On the facts and in the circumstances of the case and in law, the Ld, CIT(A) has erred in allowing the claim of depreciation of Rs. 13,88,049/- to the assessee ignoring the fact that the assessee had claimed the amount incurred on purchase of assets in earlier years as application of income, on which depreciation is claimed now and further allowance of depreciation will be tantamount to double deduction".

4. "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the expenses of Rs. 76,33,020/- ignoring that the same were not attributable to the income earned."

3. The 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 lakhs. Therefore, in view of the recent CBDT Circular dated 8<sup>th</sup> August, 2019, wherein the CBDT has raised the monetary limit for filing of the appeal by the Revenue before the Tribunal to Rs.50 lakhs, the appeal filed by the Revenue is not maintainable. Referring to the decision of the Ahmedabad Bench of the Tribunal in the case of *ITO vs. Dinesh Madhavlal Patel, vide ITA No.1398/Ahd/2004, order dated 14<sup>th</sup> August, 2019*, he submitted that the Tribunal in the said decision, while dismissing the appeal of the Revenue on account of low tax effect has held that the said CBDT Circular dated 8<sup>th</sup> August, 2019 shall be applicable to the pending appeals in addition to the appeals to be filed henceforth. He accordingly submitted that the appeal filed by the Revenue should be dismissed as not maintainable.

4. The ld. DR, on the other hand, fairly conceded that the tax effect involved in the grounds raised by the Revenue is, admittedly, below Rs.50 lakhs.

5. We have considered the rival arguments made by both the sides 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 lakhs. The CBDT, vide Circular No.17/2019 dated 8<sup>th</sup> August, 2019, has raised the monetary limits for filing of the appeals by the Revenue before the Tribunal to Rs.50 lakhs. The Ahmedabad Bench of the Tribunal in the case of *ITO vs. Dinesh Madhavlal Patel(supra)* has held that the said Circular dated 8<sup>th</sup> August, 2019 shall be applicable 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.”

6. Since, in the instant case, admittedly, the tax effect involved in the grounds 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.

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

The decision was pronounced in the open court on conclusion of the hearing today itself i.e., on 21.08.2019.

Sd/-

(SUCHITRA KAMBLE)  
JUDICIAL MEMBER

Dated: 21<sup>st</sup> August, 2019

dk

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