

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 43 & 44/VIZ/2014
(Asst. Year : 2008-09 & 2009-10)**

DCIT, Circle-2(1),
Vijayawada.

vs.

Smt. Narra Siva Subba
Lakshmi, D.No. 59A-10-9,
K.P. Nagar, Near Benz
Circle Super Bazar,
Vijayawada.

(Appellant)

PAN No. ABRPN 9543 K
(Respondent)

Assessee by : Shri P.V. Subba Rao – CA.
Department By : Smt. Suman Malik – Sr.DR

Date of hearing : 19/08/2019.
Date of pronouncement : 23/08/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

These appeals by the Revenue are directed against the separate orders of Commissioner of Income Tax (Appeals), Vijayawada, both dated 28/11/2013 for the Assessment Years 2008-09 & 2009-10. Since facts and issues are common, clubbed and heard together and disposed of by way of this consolidated order.

2. When these appeals are taken up for hearing, Id.AR by placing reliance on the decision of the ITAT, Ahmedabad Benches

in the case of *ITO Vs. Dinesh Madhavlal Patel* in ITA No.1398/Ahd/2004, dated 14/08/2019 has submitted that the Tribunal by following the CBDT Circular No.17/2019, dated 08.08.2019 dismissed the Revenue's appeal and therefore submitted that same may be followed. Ld.DR relied on the grounds of appeal.

3. We find that the coordinate bench of the Ahmedabad tribunal in the case of *Dinesh Madhavlal Patel* (supra) has considered the CBDT Circular No.17/2019, dated 08/08/2019 and dismissed the Revenue's appeal. For the sake of convenience, the relevant portion of the order is extracted 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 of 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 ITO Vs Dinesh Madhavlal Patel (ITA No. 1398/Ahd/2004) and 627 other appeals and COs Page 5 of 7 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/ judgment 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.*

10. *As we part with the matter, we must place on record our deep appreciation to our own team which has painstakingly identified all these low tax effect appeals in the long weekend and less than two working days, to the Principal Chief Commissioner of Income Tax Gujarat, as also the learned Departmental Representatives, for his immense help, cooperation and active involvement in speedily disposing of these appeals, and, of course, to the ITAT Bar Association Ahmedabad for their whole hearted cooperation in this special drive. The circular was issued on Thursday the 8th August 2019, and within two working days and the long weekend, today on 14th August 2019, all the appeals stand disposed of. It's only a team effort and whole hearted cooperation of all the stakeholders that can enable us to so speedily implement taxpayer friendly initiatives of the Government of India. The taxpayer relief involved in these appeals, including interest and the other corollaries, is estimated to be well over Rs 350 crores. The lead case before us is an appeal filed over fifteen years ago by the Income Tax Officer and it deals with an assessment year which pertains to the period over twenty years ago. Yet, the matter had not reached the finality and the revenue's challenge to the relief granted by the Commissioner (Appeals) had remained undecided. That is nothing but prolonged agony of uncertainty to the taxpayers. It is indeed an appreciable goodwill gesture by the Government, for so many taxpayers, on the eve of this Independence Day and offering them freedom from the prolonged mental agony and uncertainty of litigation."*

4. Respectfully following the decision of the ITAT, Ahmedabad Benches in the above referred to case, we find that these appeals

filed by the Revenue are not maintainable and dismissed accordingly.

5. In the result, appeals filed by the Revenue are dismissed.

Order Pronounced in open Court on this 23rd day of August, 2019.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 23rd August, 2019.

vr/-

Copy to:

1. *The Assessee – Smt. Narra Siva Subba Lakshmi, D.No. 59A-10-9, K.P. Nagar, Near Benz Circle Super Bazar, Vijayawada.*
2. *The Revenue – DCIT, Circle-2(1), Vijayawada.*
3. *The CIT, Vijayawada.*
4. *The CIT(A), Vijayawada.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.