

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “ए”, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH ‘A’, CHANDIGARH

श्री संजय गर्ग, न्यायकि सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य

BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER
AND SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos. 1142 & 1143/Chd/2012

निर्धारण वर्ष / Assessment Years: 2007-08 & 2008-09

The A.C.I.T., Circle 1(1), Chandigarh.	बनाम	M/s Alchemist Ltd., SCO 12-13, Sector 9-D, Chandigarh.
		स्थायी लेखा सं./PAN NO: AABCT1238R
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri Ashwani Kumar, CA

राजस्व की ओर से/ Revenue by: Smt. Chanderkanta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 14.08.2019

उद्घोषणा की तारीख/Date of Pronouncement: 26.08.2019

आदेश/ORDER

Per Annapurna Gupta, Accountant Member:

Both the above appeals relate to the same assessee and have been preferred by the Revenue against separate orders of the Commissioner of Income Tax (Appeals), Chandigarh [(in short ‘CIT(A)’] both dated 31.8.2012 relating to assessment years 2007-08 and 2008-09 respectively, passed

u/s 250(6) of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

2. At the outset, the Ld. AR pointed out that the CBDT, vide its recent Circular No.17/2019 dated 8/8/19, has enhanced the monetary limit for filing appeals by the department before the ITAT from Rs. 20 lacs to Rs. 50 lacs. Copy of the aforesaid circular was placed before us. Referring to the same, Ld.Counsel for the assessee pointed out that the CBDT had vide this circular modified paras 3 and 5 of the earlier circular no. 3/2018, which dealt with the monetary limits for filing appeals and the method of calculating tax effect involved in composite orders passed, respectively, leaving all other conditions specified in the earlier circular intact. Our attention was drawn to the relevant contents of the Circular as under:

Circular No. 17/2019
F.No.279/Misc. 142/2007-ITJ(Pt.)
Government of India
Department of Revenue
Central Board Direct Taxes
Judicial Section

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:

<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.

5. The same may be brought to the notice of all concerned.

6. This issues under section 268A of the Income-tax Act, 1961."

3. It was therefore stated that the applicability of the Circular retrospectively to pending appeals as specified in

para 13 of the earlier circular would remain. He therefore stated that since the tax effect involved in the present case is less than Rs. 50 lacs, the appeals are covered by the aforesaid circular and are liable to be dismissed . The Ld. DR has also fairly admitted that CBDT circular No. 17/2019 is applicable to both the appeals.

4. We have considered the contentions of the parties before us and have also gone through the CBDT Circular No.17/2019 dated 8/8/19, and have noted the enhancement in monetary limits for filing appeal by the department to the ITAT to Rs.50 lacs from the earlier limit of Rs. 20 lacs which was specified vide Circular No.3/2018.We have also noted that the CBDT has vide this circular modified only para 3 and 5 of its earlier circular No.3/2018 leaving all other para's intact. Para 13 of the earlier circular dealt with applicability of the circular retrospectively to pending appeals also and read as under:

“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.”

5. Since this para has not been modified by the recent circular, the enhanced monetary limits specified in the recent circular will apply to the pending appeals also.

In view of the CBDT Circular No. 17/2019 (supra) read alongwith Circular No.3/2018,the present appeals of the Revenue is dismissed due to low tax effect.

6. It is, however, clarified that the dismissal of the above appeal shall not be taken to be affirmation of the order of the CIT(A) on merits. The legal issue raised by the Revenue is being left open to be adjudicated in an appropriate case.

7. In the result, both the Departmental appeals are dismissed.

Order pronounced in the Open Court.

Sd/-

संजय गर्ग

(SANJAY GARG)

न्यायकि सदस्य/Judicial Member

दिनांक /Dated: 26th August, 2019

रती

Sd/-

अन्नपूर्णा गुप्ता

(ANNAPURNA GUPTA)

लेखा सदस्य/Accountant Member

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar