

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F', NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA No. 3861/Del/2015
Assessment Year: 2010-11

ACIT-CC-07, ROOM NO. 330, ARA CENTRE, JHANDEWALAN EXTN., NEW DELHI	Vs.	SH. SANJAY GUPTA, A-11, CC COLONY, OPP. R.P. BAGH, NEW DELHI - 110007 (PAN: AELPG6586L)
(Appellant)		(Respondent)

Department by	Smt. Sulekha Verma, CIT(DR)
Assessee by	None

ORDER

PER H.S. SIDHU, JM:

This appeal is filed by the Revenue against the impugned order passed by the Ld. CIT(A)-24, New Delhi relating to assessment year 2010-11 on the following grounds:-

1. The order of Ld. CIT(A) is not correct in law and facts.
2. On the facts and circumstances of the case the Ld. CIT(A) has erred in law in

deleting the addition of Rs. 91,26,686/- made by the AO on account of unexplained investment u/s. 69 of the I.T. Act, 1961.

3. The appellant craves leave to add, amend any / all the grounds of appeal before or during the course of hearing of the appeal.

2. In this case, notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor his authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal *ex parte* qua assessee, after hearing the Ld. DR and perusing the records.

3. It is noted that the tax effect involved in this Departmental Appeal is less than Rs.50 lakhs, hence, he

requested that the appeal of the Revenue may be dismissed in view of latest CBDT Circular No. 17/2019 Dated 08.08.2019 wherein the monetary limit for filing the appeal before the Appellate Tribunal by the Department have been enhanced to Rs.50 lakhs.

4. It is further noted that vide Circular No.3/2018 Dated 11th July, 2018 issued by CBDT under section 268A of the I.T. Act, it has been directed that the Department shall not file appeal before the Tribunal in case where the tax effect does not exceed the monetary limit of Rs.20 lakhs. It is also directed that this instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in the Tribunal. Pending appeals below the specified tax limit may be withdrawn/not pressed by the Department. Recently, the CBDT vide Circular No.17/2019 Dated 08.08.2019 amended its earlier Circular No.3/2018 (Supra) whereby it has been directed that monetary limit for filing the Departmental appeal in Income Tax Cases may be enhanced further through this amendment in para-3 of the Circular mentioned above and accordingly, the monetary

limit for filing the appeal before the Appellate Tribunal have been enhanced to Rs.50 lakhs. Since Circular No.17/2019 Dated 08.08.2019 have been issued to amend its earlier Circular No.3/2018 dated 11.7.2018 (Supra), therefore, all the conditions of earlier Circular No.3/2018 shall apply accordingly. This view is supported by the ITAT, Ahmedabad 'A' Bench decision dated 14th August, 2019 passed in the case of Income Tax Officer, Ward 3(2), Ahmedabad vs. Dinesh Madhvlal Patel and 627 others passed in ITA No. 1398/Ahd/2004 (AY 1998-99).

4.1 Ld. CIT(DR) has agreed that the tax effect involved in this appeal is below the prescribed limit i.e. Rs. 50 lacs.

5. Keeping in view of the facts and circumstances as explained above and in view of the aforesaid CBDT Circulars as well as decision dated 14th August, 2019 of the ITAT, Ahmedabad 'A' Bench passed in the case of Income Tax Officer, Ward 3(2), Ahmedabad vs. Dinesh Madhvlal Patel and 627 others passed in ITA No. 1398/Ahd/2004 (AY 1998-99), the appeal of the Department is dismissed.

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

The decision is pronounced on 03.09.2019.

**Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER**

**Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER**

Dated: 03.09.2019

“SRB”

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi

