

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'C': NEW DELHI)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 1718/Del/2017
(Assessment Year: 2013-14)**

ACIT, Central Circle -29, New Delhi.	Vs.	M/s HBN Dairies & Allied Ltd., 527B, 5 th Floor, HBN Office,D- Mall, Plot -D, District Centre, Paschim Vihar, New Delhi
PAN No: AAACH7852C		
APPELLANT		RESPONDENT

Revenue By : Shri Kumar Hrishikesh CIT(DR)
Assessee By : Shri Varun Jain, CA

Per Anadee Nath Misshra, AM

(A) This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi, ["Ld. CIT(A)", for short], dated 28.12.2016 for Assessment Year 2013-14. Grounds taken in this appeal of Revenue are as under:

- "1. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law & on facts in deleting the disallowance u/s 14A read with rule 8D of the Income Tax Rules amounting to Rs. 65,45,014/- made by the AO ignoring the fact that the provisions of section 14A are mandatory.*
2. *that the order of the CIT(A) is perverse, erroneous and is not tenable on facts and in law.*

3. *That the grounds of appeal are without prejudice to each other.*
4. *The appellant craves leave to add, alter or amend any/all of the ground(s) of appeal before or during the course of the hearing of the appeal."*

(B) At the outset, Learned Commissioner of Income Tax (Departmental Representative) ["Ld. CIT(DR)", for short] brought to our notice, at the time of hearing that tax effect in this appeal is below Rs. 50,00,000/-. Both sides, [Representatives of Revenue and the Assessee] were in agreement, at the time of hearing before us, that the tax effect in the present appeal is below Rs. 50,00,000/-. Vide recent CBDT Circular No. 17/2019 dated 08.08.2019 read with earlier CBDT Circular No. 3 of 2018, dated 11.07.2018, minimum threshold limit of tax effect of filing of appeals by Revenue in Income Tax Appellate Tribunal ("ITAT", for short) has been enhanced to Rs. 50,00,000/-. In a subsequent clarification issued by CBDT vide F.No. 279/Misc/M-93/2018-ITJ, dated 20/08/2019, it has been clarified by CBDT that the aforesaid revised monetary limit is also applicable to all pending appeals in ITAT. Having regard to the aforesaid, the Ld. CIT(DR) for Revenue did not press the appeal. The learned Authorized Representative for the assessee also submitted that the appeal was not maintainable in view of the aforesaid CBDT Circular dated 08.08.2019 and 11.07.2018; and aforesaid clarification dated 20.08.2019 issued by CBDT. Therefore, this appeal is dismissed being not pressed and also being not maintainable having regard to aforesaid CBDT Circular No. 17/2019 dated 08.08.2019 read with aforesaid CBDT Circular No. 3 of 2018 in the light of aforesaid clarification dated 20/08/2019.

(C) Before leaving, we clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961 seeking recall of this order and, for restoration of this appeal if it is found that appeal of Revenue is not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.

(D) In the result, this appeal by Revenue is dismissed. Our decision was orally pronounced in the Open Court after conclusion of hearing on the date of hearing. Now, this written order is pronounced in Open Court on 06/9/2019.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 06.09.2019
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	