

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

**BEFORE SHRI K.N. CHARY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 6870/Del/2015
(Assessment Year: 2012-13)**

ACIT, Central Circle -08 (Now CC- 17), New Delhi.	Vs.	Sh. Sumit Khaneja, H. No. 2, 23, Central Drive DLF, Chattarpur Farms, New Delhi.
PAN No: AGUPK4134F		
APPELLANT		RESPONDENT

Revenue By : Ms. Ashima Neb, Sr. DR

Assessee By : Ms. Riya Garg, CA

Date of Hearing : 05/09/2019

**ITA No:- 3229/Del/2016
(Assessment Year: 2011-12)**

ACIT, Circle 7(2), New Delhi.	Vs.	M/s Dwarkadish Spinners Ltd., 1/A-20, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi-110044.
PAN No: AABCD0202D		
APPELLANT		RESPONDENT

Revenue By : Ms. Ashima Neb, Sr. DR

Assessee By : Shri Ravi Pratap Mall, Adv.

Date of Hearing : 05/09/2019

CONSOLIDATED ORDER

Per Anadee Nath Misshra, AM

(A) The above captioned appeals by Revenue are taken up together for the sake of convenience and brevity and these appeals are hereby disposed off through this Consolidated Order; because, in these appeals the tax effect is less than the monetary limit fixed by the Central Board of Direct Taxes ("CBDT", for short) in its Circular No. 17/2019 dated 08.08.2019. Grounds taken in these appeals of Revenue are as under:

ITA No.- 6870/Del/2015

- “1. *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of **Rs.54,00,000/-** made by AO on account of unexplained investment/expenditure disallowance etc of the group, which was not offered in the return of income filed for the AY 2012-13, despite submitting filing declaration during the course of search proceedings.*
2. *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of **Rs.44,30,838/-** (Addition reduced from Rs.50,00,216/- to Rs.5,69,378/-), made by AO u/s 2(22)(e) of the I.T. Act, 1961.*
3. *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in wrongly interoperating the provisions of explanation 2 of section 2(22)(e) which makes it very clear that accumulated profits includes profits of the company up to the date of distribution/payment.*
4. *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of **Rs.3,00,000/-** which was not shown by the assessee in his return of income.*
5. *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of **Rs.75,000/-** made by AO on account of unexplained money u/s69Aofthe IT Act, 1961.*
6. (a) *The order of the CIT(Appeals) is erroneous and not tenable in law and on facts,*

(b) *The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”*

ITA No.- 3229/Del/2016

- "1. Ld. CIT(A) erred in law and on facts of the case in deleting the addition of Rs. 16,03,306/- made by the AO on account of selling, General & Administrative expenses.*
- 2. Ld. CIT(A) erred in law and on facts of the case in deleting the addition of Rs. 1,32,72,280/- made by the AO on account of depreciation claimed.*
- 3. The appellant craves leave, modify, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."*

(B) At the outset, Learned Senior Departmental Representative ("Ld. DR"), for short] brought to our notice, at the time of hearing, that tax effect in each of these appeals is below Rs. 50,00,000/-. Both sides, [Representatives of Revenue and the Assesseees] were in agreement, at the time of hearing before us, that the tax effect in each of these appeals 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 for 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. Sr. DR for Revenue did not press the appeals. The learned Authorized Representatives (Advocate/Chartered Accountant) for the respective assesseees also submitted that the appeals were not maintainable in view of the aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018; and the aforesaid clarification dated 20.08.2019 issued by CBDT.

Therefore, these appeals are 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 the appeal(s) if it is found that any appeal(s) of Revenue are/ is not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.

(D) In the result, both the appeals by Revenue are 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 11 /9/2019.

Sd/-
(K.N. CHARY)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 11.09.2019

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	