



**IN THE INCOME TAX APPELLATE TRIBUNAL  
VARANASI CIRCUIT BENCH, VARANASI**

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT  
AND T. S. KAPOOR, ACCOUNTANT MEMBER**

Sr. No.	Appeal No.	Asstt. Year	Appellant	Respondent	Assessee by
1	ITA No. 164/A/2011	2005-2006	A.C.I.T., C.C., Varanasi	Shri Lalit Kumar Barnwal, C/o M/s Pee Woolen Mills, Main Road, Bhadohi. PAN - ACEPB0726A	Shri A. K. Thukral, CA
2..	ITA No. 139/A/2012	2009-2010	I.T.O., Ward - 2(3), Varanasi	M/s Amrish Kumar Gupta, Arun Kumar Gupta & Ambuj Kumar Gupta, N-1/60, Nagwa, Lanka, Varanasi. PAN – AAOFA7702K	Shri Aprameya M. Gabhawala, CA
3	CO No. 02/Vns/2018 (In ITA No. 139/A/2012)		M/s Amrish Kumar Gupta, Arun Kumar Gupta & Ambuj Kumar Gupta, N- 1/60, Nagwa, Lanka, Varanasi. PAN –AAOFA7702K	I.T.O., Ward - 2(3), Varanasi	
4	ITA No. 398/A/2012	2010-2011	A.C.I.T., C.C., Varanasi	M/s Suvidha Hi-tech Diagnostic Centre Pvt. Ltd., D-27/90, ground Floor, Shakambari Complex, Durgakund Road, Varanasi. PAN – AAFCS9476A	Shri Satyam Agrawal, CA
5	ITA No. 410/A/2012	2008-2009	A.C.I.T., C.C., Varanasi	M/s Babylon Green Estate Pvt. Ltd., D-27/90, ground Floor, Shakambari Complex, Bhelupura, Varanasi. PAN – AACCB4353N	Shri Satyam Agrawal, CA
6	ITA No. 426/A/2012	2010-2011	A.C.I.T., C.C., Varanasi	M/s Shubh Realtors, D-27/90, ground Floor, Shakambari Complex, Varanasi. PAN – ABKFS0184Q	Shri Satyam Agrawal, CA
7	ITA No. 601/A/2014	2009-2010	J.C.I.T., range – 01, Gorakhpur	M/s Annapurna Plastic Products Pvt. Ltd., Lal Diggı Chowk, Gorakhpur. PAN – AAFCOA0541C	None
8	ITA No. 11/A/2015	2009-2010	I.T.O., Ward – 1(4), Gorakhpur	Shri Rajendra Kumar Tripathi, Pharenda Road, In front of Block, Maharajganj. PAN – ADRPT2450P	Shri Satyam Agrawal, CA for Shri Ashish Bansal, Advocate
9	CO No. 15/A/2015 (In		Shri Rajendra Kumar Tripathi,	I.T.O., Ward – 1(4), Gorakhpur	

	ITA No. 14/A/2015)		Pharenda Road, In front of Block, Maharajanj. PAN –ADRPT2450P		
10	ITA No. 104/A/2016	2011-2012	A.C.I.T., Circle – 3, Varanasi	M/s Kiran Society, Kiran Village, Madhopur, P.O.-Kuruhan, Varanasi. PAN – AAATK6393G	Shri Aprameya M. Gabhawala, CA
11	ITA No. 114/A/2016	2012-2013	A.C.I.T., C.C., Varanasi	Smt. Neeta Agrawal, Prop. G.N. Brothers, K-37/34, Goal Ghar, Varanasi. PAN – ABVPA7299R	Shri Deepak Gujrati, CA
12	ITA No. 115/A/2015	2012-2013	A.C.I.T., C.C., Varanasi	M/s G. N. Exports, K-37/34, Goal Ghar, Varanasi. PAN – AADFG2312E	Shri Deepak Gujrati, CA
13	ITA No. 155/A/2016	2007-2008	A.C.I.T., C.C., Varanasi	Shri Vinod Kumar Jalan, Boaring No. 10, Industrial Estate, Gorakhpur. PAN – AAXPJ3258Q	Shri Satyam Agrawal, CA for Shri Ashish Bansal, Advocate
14	ITA No. 156/A/2016	2008-2009	A.C.I.T., C.C., Varanasi	Shri Vinod Kumar Jalan, Boaring No. 10, Industrial Estate, Gorakhpur. PAN – AAXPJ3258Q	Shri Satyam Agrawal, CA for Shri Ashish Bansal, Advocate
15	ITA No. 229/A/2016	2012-2013	I.T.O., Ward – III(4), Sonebhadra	M/s Suman Engineering Works, Type-III-9, JME Shaktinagar, Sonebhadra. PAN – AAIFM8198H	Shri Ashim Zafar Adv.
16	ITA No. 06/A/2018	2009-2010	D.C.I.T., Circle – 03, Varanasi	M/s Banaras Hotel Ltd., Nadesar, Varanasi. PAN – AABCB2234P	Shri Ashim Zafar Adv.
17	ITA No. 07/A/2018	2010-2011	D.C.I.T., Circle – 03, Varanasi	M/s Banaras Hotel Ltd., Nadesar, Varanasi. PAN – AABCB2234P	Shri Ashim Zafar Adv.
18	ITA No. 124/A/2017	2005-2006	A.C.I.T., Range – 02, Gorakhpur	Shri Manoj Kumar Agarwal, Prop. M/s Agarwal Carriers, Padrauna, Kushinagar. PAN – ADGPK3167M	None
19	ITA No. 126/A/2017	2008-2009	I.T.O., Ward – 2(2), Gorakhpur	Tej Pratap Shahi, HP Children Academy, 09 Civil Lines, Gorakhpur. PAN – AISPS9022L	None
20	ITA No. 158/A/2017	2013-2014	I.T.O., Ward – 2(2), Gorakhpur	M/s Swastik Associates, Goel Hata, Dharamshala Bazar, Gorakhpur. PAN – ABWFS6831Q	Shri P. P. Agrawal, Adv.
21	ITA No. 215/A/2017	2010-2011	A.C.I.T., Circle – 02, Gorakhpur	M/s Sri Ghanshyam Narayan Manav Kalyan Sansthan, Pali, Sahjanwa, Gorakhpur. PAN – AACAS9596A	Shri S. P. Shukla, Adv.

22	ITA No. 159/A/2017	2013-2014	A.C.I.T., Circle – 02, Gorakhpur	M/s Sri Ghanshyam Narayan Manav Kalyan Sansthan, Pali, Sahjanwa, Gorakhpur. PAN – AACAS9596A	Shri S. P. Shukla, Adv.
23	ITA No. 216/A/2017	2014-2015	A.C.I.T., Circle – 02, Gorakhpur	M/s Sri Ghanshyam Narayan Manav Kalyan Sansthan, Pali, Sahjanwa, Gorakhpur. PAN – AACAS9596A	Shri S. P. Shukla, Adv.
24	ITA No. 167/A/2017	2011-2012	D.C.I.T., Range – 1, Gorakhpur	M/s Buddha Hospital Pvt. Ltd., Park Road, Gorakhpur. PAN – AACCB2524P	None
25	ITA No. 218/A/2017	2014-2015	D.C.I.T., Range – 1, Gorakhpur	Shri Manish Kumar Baranwal, Prop. M/s New Vivek Jewelers, rapti Complex, Asuran Chowk, Gorakhpur. PAN – ACVPB5606Q	Shri Ashim Zafar Adv.
26	ITA No. 220/A/2017	2014-2015	A.C.I.T., Range – 1, Gorakhpur	Shri Awadhesh Kumar Srivastava, 33, Kasia Road, Betiahata, Gorakhpur. PAN – AISPS9029B	None
27	ITA No. 285/A/2017	2013-2014	A.C.I.T., Range – II, Gorakhpur	M/s Khalsa Mining & Engineering, Vill. Khairat, PO – Sanwreji, Khampar, Deoria. PAN – AAIFK8999A	Shri Ashim Zafar, Adv.
28	ITA No. 290/A/2017	2013-2014	I.T.O., Ward – 3(4), Deoria	Smt. Kiran Singh, Vijay Laxmi Enterprises, Kakawal, Deoria. PAN – BOQPS2003N	Shri Abhishek Agarwal, Adv.
29	CO No. 01/Vns/2019 (In ITA No. 01/Vns/2019)		Smt. Kiran Singh, Vijay Laxmi Enterprises, Kakawal, Deoria. PAN – BOQPS2003N	I.T.O., Ward – 3(4), Deoria	
30	ITA No. 296/A/2017	2013-2014	A.C.I.T., Circle - Azamgarh	M/s Life Line Hospital & Research Centre, 496, Madhya, Azamgarh. PAN – AADFL2597C	Shri Pankaj Chaubey, CA
31	ITA No. 04/Vns/2018	2013-2014	I.T.O., Ward – 1(1), Varanasi	M/s Atma Garments Pvt. Ltd., CK-19/17, Chowk, Varanasi. PAN – AAECA8650M	Shri Ashish Jindal, CA
32	ITA No. 18/A/2018	2012-2013	I.T.O. – 1, Jaunpur	M/s Helm Infra Developers Pvt. Ltd., Diljak, Goolarghat, Post – Virbhan, Jaunpur. PAN – AACCH7133E	None
33	ITA No.	2012-2013	I.T.O., Ward – 3(5),	Sri Raghvendra Kumar	Shri Abhishek

	36/A/2018		Deoria	Jaiswal, Lasmi Narain Market, Barhaj Gali, Station Road, Deoria. PAN – AGHPJ0827H	Agarwal, Adv.
34	ITA No. 57/Vns/2018	2013-2014	A.C.I.T., Range – 2, Gorakhpur	M/s Panjab Cooperative Cane Development Union Ltd., Ramkola, Kushinagar. PAN – AAAAP5273F	None
35	ITA No. 58/Vns/2018	2012-2013	A.C.I.T., Range – 2, Gorakhpur	M/s Sahkari Ganna Vikas Samiti, Khadda, Kushinagar. PAN – AACAS5492F	None
36	ITA No. 84/Vns/2018	2014-2015	I.T.O., Ward – 2(5), Ballia	Shri Sanjay Kumar Singh, S/o Shri Prabhu Nath, Bankatta, Subhash Nagar, Ballia, PAN – CNTPS0007F	Shri J. P. Singh, C.A
37	ITA No. 232/A/2018	2012-2013	D.C.I.T., Range – 02, Gorakhpur	M/s Cooperative Can Development Union Ltd., Chitauni, Kushinagar. PAN – AAAAC3328G	None
38	ITA No. 233/A/2018	2012-2013	D.C.I.T., Range – 02, Gorakhpur	M/s Seorahi Cooperative Can Development Union Ltd., Seorahi, Kushinagar. PAN – AABAS8968D	None
39	ITA No. 234/A/2018	2014-2015	I.T.O. Ward – 1(1), Gorakhpur	Shri Ajay Kumar Srivastava, Prop. M/s Ajay Enterprises, Naugarh Road, Bansi, Siddhartha Nagar. PAN – AVFPS2797C	Shri Subodh Kumar Srivastava, Adv.
40	ITA No. 07/Vns/2018	2011-2012	A.C.I.T., Circle – 03, Varanasi	Shri Ganga Sagar Singh, Village – Karampur Aurihar, Saidpur, Gazipur. PAN AXWPS6480P	Shri Subhash Chand, Adv.
41	ITA No. 08/Vns/2018	2014-2015	I.T.O., Ward – 3(5), Ghazipur	Shri Chandan Kumar, C/o Rajesh Gun House, Kachehari Road, Ghazipur. PAN – AOFPK6839Q	Shri Ashim Zafar Adv.
42	ITA No. 11/Vns/2018	2013-2014	A.C.I.T., C.C., Gorakhpur	M/s Azam Rubber Product Ltd., AL-09, Sector, GiDA, Gorakhpur PAN – AECA1870F	None
43	CO No. 03/Vns/2019 (In ITA No. 11/Vns/2018		M/s Azam Rubber Product Ltd., AL- 09, Sector, GiDA, Gorakhpur. PAN – AECA1870F	A.C.I.T., C.C., Gorakhpur	
44	ITA No. 15/Vns/2018	2014-2015	I.T.O., Ward – 2(1), Gorakhpur	Shri Om Prakash Jaiswal, M/s Jaiswal Trading Co., Minwa, Sahjanwa, Gorakhpur. PAN – AGWPJ7026R	None

45	ITA No. 16/Vns/2018	2009-2010	I.T.O., Ward – 3(4), Deoria	Shri Anil Kumar Jaiswal, Apsara Lodge, Station Road, Deoria. PAN – AHYPJ6545N	None
46	ITA No. 18/Vns/2018	2015-2016	A.C.I.T., Circle - Azamgarh	Shri Moinuddin Khan, Lonadeeh, Phulpur, Azamgarh. PAN – BGKPK8619N	Shri M. L. Kesarwani, C.A.
47	ITA No. 30/Vns/2018	2014-2015	A.C.I.T., Range – 1, Gorakhpur	M/s Purvanchal Caterers, 157 – A, Awas Vikas Colony, Shahpur, Gorakhpur. PAN – AAGFP2689E	None
48	ITA No. 32/Vns/2018	2011-2012	I.T.O., Ward – 2(1), Gorakhpur	Shri Param Hansh Singh, M/s Hitech Medical Agency, Kalyanpur Barhalganj, Gorakhpur. PAN – AGZPS5895C	None
49	ITA No. 36/Vns/2018	2014-2015	I.T.O., Ward – 01 (2), Gorakhpur	M/s Ram Harakh Jaiswal, Ward No. 10, Pipraich, Gorakhpur. PAN – AAKFR4780Q	None
50	ITA No. 47/Vns/2018	2014-2015	I.T.O., Ward – 02 (2), Gorakhpur	M/s Samriddhi Life Style, Maya Sahu Katra, Golghar, Gorakhpur. PAN – ACFFS5461G	None
51	ITA No. 105/Vns/2018	2010-2011	A.C.I.T., Circle – Azamgarh.	M/s Ashok Kumar Singh, Nizamabad, Azamgarh. PAN – AAQFM2839P	Shri Prasoon Goel and Shri Shivam Garg, CAs
52	ITA No. 10/Vns/2019	2014-2015	I.T.O. – 2 (2), Gorakhpur	Shri Sita Ram Yadav, Bilandpur, Gorakhpur. PAN – AAYPY6078J	None
53	ITA No. 24/Vns/2019	2014-2015	I.T.O. – 1(1), Gorakhpur	Shri Ashok Kumar Verma, Prop. M/s J. P. Jewelers, Rapti Complex, Asuram Chowk, Medical College, Gorakhpur. PAN – AAVPV0507A	None
54	ITA No. 41/Vns/2019	2015-2016	I.T.O., Range – 3(1), Varanasi	Shri Ganesh Yadav, Baraipur, Chunar Road, Kandwa, Chitapur, Varanasi. PAN – ADVPY9993N	None
55	ITA No. 108/Vns/2019	2010-2011	I.T.O., Ward – 3(5), Ghazipur	Shri Haushala Prasad Rai, S/o Rajendra Prasad Rai, Chandra Shekhar Nagar Colony Rauza, Ghazipur. PAN – AGRPR2748B	Shri Ashim Zafar Adv.
56	ITA No. 116/Vns/2019	2010-2011	I.T.O., Ward – 2(3), Gorakhpur	Smt. Usha Mishra, Usha Villa, Vivekanandpuri Colony, Daudpur, Gorakhpur. PAN – BBTPM8442B	Shri S. N. Mani, Adv.
57	ITA No. 120/Vns/2019	2009-2010	A.C.I.T., Circle – II, Varanasi	Shri Gautam Choudhari, D – 66, Chandrika Nagar Colony, Sigra, Varanasi. PAN – AFGPC3746Q	Shri Ashish Jindal, CA

Department by:	Shri Ashok Kumar Tripathi, CIT (D.R.) and Shri A. P. Mani, D.R.		
Date of hearing:	29	08	2019
Date of pronouncement:	29	08	2019

## **ORDER**

### **PER BENCH:**

These appeals filed by the Revenue are directed against the orders by the Commissioner of Income Tax (Appeals)/s, relating to different assessees for different assessment years, and in some cases the assessees have also filed Cross Objections (COs).

2. Section 268A of the Act provides that an appellate authority, including the Appellate Tribunal, shall have regard to the instructions, directions, orders, etc. issued by the CBDT ('Board') from time to time fixing monetary limits for the purpose of regulating the filing of appeals by the Revenue before the different appellate authorities, and which shall, while deciding those appeals, have regard to the said limits.

3. Since the 'tax effect', as computed in terms of Circular 3 of 2018, dated 11/7/2018 issued by the Board u/s. 119 r/w s. 268A of the Act, involved in these appeals filed by the Department does not exceed Rs.50 lakhs in each of these appeals, they are not maintainable in view of CBDT's Circular No.17/2019, dated 8<sup>th</sup> August, 2019, and are liable to be dismissed as such. Since all these appeals are to be disposed on the basis of the monetary limit, as now revised, we have decided to dispose of them by passing a composite order.

4. The parties were heard.

5. Recently, the Ahmedabad Bench of this Tribunal has passed a composite order, dismissing, similarly, 628 appeals by the Revenue and related COs by the assessees. The order is instructive, and is accordingly reproduced as under:

“These 628 appeals and COs pertain to the appeals are filed by various Assessing Officers, all these appeals call into question correctness of the relief granted to the taxpayers by the Commissioners of Income Tax (Appeals) and, most importantly, the tax effect involved in all these appeals does not exceed Rs.50,00,000 in each of these appeals. The cross objections taken up for hearing are only such cross objections as emanate from these appeals and are broadly in support of the orders passed by the Commissioner (Appeals). In these cases, in the light of the discussions with the Principal Chief Commissioner of Income Tax (Gujarat) and representatives of the Ahmedabad ITAT Bar Association, individual notices are dispensed with; notices of hearing are given only through the notice board.

2. It is in this backdrop that we are pleased to take note of a very pragmatic and taxpayer friendly policy decision by the Government of India for reducing the income tax litigation. Vide CBDT circular dated 8th August, 2019, the income tax department has further liberalized its policy for not filing appeals against the decisions of the appellate authorities in favour of the taxpayers, wherein tax involved is below certain threshold limits, and announced its policy decision not to file, or press, the appeals, before this Tribunal, against the appellate orders favourable to the assessee in the cases in which overall tax effect, excluding interest- except when interest itself is in dispute, is Rs 50,00,000 or less. What it means, in plain words, is that when a Commissioner (Appeals) gives the taxpayer tax relief of upto Rs 50 lakhs in an appeal in an assessment year, the matter ends there and the relief so granted by the Commissioner (Appeals) cannot be challenged before this Tribunal, that when this Tribunal gives the taxpayer relief of upto Rs 1 crore in an appeal in an assessment year, the matter ends there and the relief so granted by the Tribunal cannot be challenged before the Hon’ble High Court, and that when Hon’ble High Court gives relief of upto Rs 2 crore to the taxpayer in an appeal in an assessment year, that relief cannot be challenged before Hon’ble Supreme Court. These monetary threshold limits for filing of appeals by the income tax authorities do not take into account interest and other corollaries of the tax demands being confirmed such as penalties, except when a penalty itself is subject matter of litigation, and prosecutions. The

enhancement of these monetary limits is at an unprecedented scale. The monetary limit for appeals before this Tribunal, which was Rs 3,00,000 till 10th July 2014, has been in effect enhanced to almost 1,700% in the last five years. This substantial relaxation is certainly a huge step which signifies trust reposed by the Government of India in the decisions of the appellate forums, and substantially cuts down time taken in the finality of the appellate process. It is indeed heartening to note that in one stroke, the Government has not only prevented, but has, in effect, set the stage for withdrawal of thousands of appeals before this Tribunal and before Hon'ble Courts above. In an environment in which retrospectivity was attached only to the taxation and not to tax reliefs or concessions, such an approach is a pleasant departure from legacy practices.

3. In view of the above factual background and the generous concession by this benevolent CBDT circular, all these appeals must be dismissed as withdrawn and the related cross objections must be dismissed as infructuous. There is, however, a small issue that we must deal with.

4. Smt Aparna Agarwal, learned Departmental Representative, however, has a point to make. She points out that the circular dated 8th August 2019 is not clearly retrospective inasmuch as it specifically states in para 4 that "(t)he said modifications shall come into effect from the date of issue of this Circular". It is thus pointed out that this sentence gives an impression that is only after the date of the said circular that the departmental appeals will not be filed in the cases within the specified tax effect limits. We are urged to bear in mind the impact of this observation while giving effect to the circular dated 8th August, 2019. She, however, hastens to add that she is yet to have any specific instructions on the issue and she leaves it for the bench to take the appropriate call. Learned representatives appearing for the taxpayers vehemently oppose the suggestion implicit in her submissions. All of them are unanimous in their argument that the circular must be held to have retrospective application and must equally apply to the pending appeals as well. Shri J P Shah, Senior Advocate, points out that the circular dated 8th August 2019 is not a standalone circular and it is required to be read with the old circular no. 3 of 2018 which is what it seeks to modify. This circular, according to the learned counsel,

only enhances the monetary limits and gives further relaxation. He urges us not to read the circular in a manner so as to nullify the underlying approach and object of reducing litigation. Shri Soparkar, learned Senior Advocate, submits that all that the present circular does is to modify the monetary limits and nothing more, and, therefore, it cannot be treated to follow any other approach other than the approach followed in the old circular. The old circular, beyond any dispute or controversy, categorically applied to the pending appeals as on the date of issuance of circular. Shri Tushar Hemani, learned Senior Advocate, points out that the circular dated 8th August 2019 only gives further relief not only in terms of the monetary limits but also in terms of the manner in which the application of circular to orders dealing with more than one year is to be made. Shri S N Divetia, learned counsel for the assessee, submits that unlike in the cases of earlier CBDT circulars, which used to be in supersession of earlier circulars on the issues, the circular dated 8th August 2019 only modifies the earlier circular which, inter alia, provided for its retrospective application. Our attention is invited to some judicial precedents in support of the contention that the benevolent circular, such as the one in question, is to be given effect in respect of the pending appeals as well. Ms Urvashi Shodhan, learned counsel for the assessee, points out that its plainly contrary to the scheme of the litigation policy of the Government of India to give this circular only prospective effect. Shri S K Sadhwani, learned counsel for the assessee, invites our attention to the letter dated 16th July 2018 issued by Member CBDT to the all the Principal Chief Commissioners of Income Tax, in the context of circular dated 11th July 2018 that the present circular seeks to modify, seeking report on withdrawal of the appeals covered by the circular. He then points out that it is the old circular is still alive today and the only change is with respect to the monetary limits. In all fairness, therefore, the same approach regarding withdrawal of pending appeals must be followed for this circular as well. On the same lines, arguments are advanced by the learned representatives which, for the sake of brevity and to avoid repetition, we are not referring to in more specific details. In brief rejoinder, learned Departmental Representative graciously leaves the matter to us.

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 on 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:

S.No.	Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.)
1	Before Appellate Tribunal	50,00,000
2	Before High Court	1,00,00,000
3	Before Supreme Court	2,00,00,000

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.

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.”

6. In view of the foregoing, the Revenue’s appeals and the assessee’s COs are being dismissed *in limine* as withdrawn/not pressed.

7. It may be clarified that though every care has been taken by the Registry of the Tribunal in identifying the listed appeals, it may yet be that some error in working the tax effect may have occurred. It may also be that an appeal/s is otherwise saved by the exceptions listed at para 10 (scope of which stands widened vide amendment dated 20/8/2018) or para 11 of the Circular. Similarly, it may be that a CO/s bears an independent ground/s, raised for adjudication. Accordingly, liberty is hereby granted to the parties to, where so, move the Tribunal in this regard, in which case it shall, where satisfied on merits, recall an appeal/s or, as the case may be, a CO/s, for being heard on merits. Further, the recall of an appeal would be accompanied by the recall of the assessee’s corresponding CO, if any, dismissed along with. Needless to add, the Tribunal shall, while doing so, which shall be per a speaking order, grant an opportunity of hearing to the other side.

8. In the result, all the appeals of the Revenue and Cross Objections by the assessee stand dismissed.

Order pronounced in the open Court on 29/08/2019.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:29/08/2019  
JJ:2908

Copy forwarded to:  
1. Appellant  
2. Respondent

3. CIT(A)
4. CIT
5. DR