

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'A': NEW DELHI)  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 5064/Del/2013  
(Assessment Year: 1994-95)**

Dy. Commissioner of Income Tax, Central Circle-6, New Delhi.	Vs.	Sh. U.K. Bose, 1, Kapoorthala Complex, Aliganj, Lucknow (UP).
<b>PAN No:</b> AFSPB7277H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**C.O. No.-38/Del/2014  
Arising from ITA No:- 5064/Del/2013  
(Assessment Year: 1994-95)**

Sh. U.K. Bose, 1, Kapoorthala Complex, Aliganj, Lucknow (UP).	Vs.	Dy. Commissioner of Income Tax, Central Circle-6, New Delhi.
<b>PAN No:</b> AFSPB7277H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 5065/Del/2013  
(Assessment Year: 1995-96)**

Dy. Commissioner of Income Tax, Central Circle-6, New Delhi.	Vs.	Sh. U.K. Bose, 1, Kapoorthala Complex, Aliganj, Lucknow (UP).
<b>PAN No:</b> AFSPB7277H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**C.O. No.-39/Del/2014**  
**Arising from ITA No:- 5065/Del/2013**  
**(Assessment Year: 1995-96)**

Sh. U.K. Bose, 1, Kapoorthala Complex, Aliganj, Lucknow (UP).	Vs.	Dy. Commissioner of Income Tax, Central Circle-6, New Delhi.
<b>PAN No:</b> AFSPB7277H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 5066/Del/2013**  
**(Assessment Year: 1996-97)**

Dy. Commissioner of Income Tax, Central Circle-6, New Delhi.	Vs.	Sh. U.K. Bose, 1, Kapoorthala Complex, Aliganj, Lucknow (UP).
<b>PAN No:</b> AFSPB7277H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**C.O. No.-40/Del/2014**  
**Arising from ITA No:- 5066/Del/2013**  
**(Assessment Year: 1996-97)**

Sh. U.K. Bose, 1, Kapoorthala Complex, Aliganj, Lucknow (UP).	Vs.	Dy. Commissioner of Income Tax, Central Circle-6, New Delhi.
<b>PAN No:</b> AFSPB7277H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Dinesh Verma, Adv. and  
Shri Hardeep Singh, CA

## **CONSOLIDATED ORDER**

### **Per Anadee Nath Misshra, AM**

**(A)** The aforementioned appeals by Revenue and Cross Objections by Shri U.K. Bose, 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 of Rs. 50,00,000/- 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.- 5064/Del/2013**

*"On the facts and in the circumstances of the case the Ld. CIT(A) has erred in:-*

- 1. The 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 deleting the penalty of Rs. 22,56,100/- u/s 271(1)(c) of I.T. Act levied on account of disallowance of interest on borrowed capital used for investment in share capital as expenditure.*
- 3. The appellant craves leave to add, alter or amend any/all grounds of appeal before or during the course of the hearing of the appeal."*

#### **C.O. No. 38/Del/2014**

- "1. That the Ld. CIT(A) has erred in law and on facts in rejecting the ground of appeal filed by the appellant wherein it was pleaded that the order passed is barred by limitation and as such void ab-initio and bad in law.*
- 2. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in holding that the order of penalty passed by the Assessing Officer was tenable in law as the penalty proceedings*

*stood revived in light of the provisions of section 275(1A) of the Income Tax Act.*

3. *That the appellant craves leave to add, alter amend or withdrawn why or all the grounds of cross-objection on or before the date of hearing.*

**ITA No.- 5065/Del/2013**

*"On the facts and in the circumstances of the case the Ld. CIT(A) has erred in:-*

1. *The 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 deleting the penalty of Rs. 12,51,400/- levied by AO u/s 271(1)(c) of I.T. Act, 1961 for furnishing inaccurate particulars of income.*
3. *The appellant craves leave to add, alter or amend any/all grounds of appeal before or during the course of the hearing of the appeal."*

**C.O. No. 39/Del/2014**

1. *That the Ld. CIT(A) has erred in law and on facts in rejecting the ground of appeal filed by the appellant wherein it was pleaded that the order passed in barred by limitation and as such void ab-initio and bad in law.*
2. *That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in holding that the order of penalty passed by the Assessing Officer was tenable in law as the penalty proceedings stood revived in light of the provisions of section 275(1A) of the Income Tax Act.*
3. *That the appellant craves leave to add, alter amend or withdrawn why or all the grounds of cross-objection on or before the date of hearing.*

**ITA No.- 5065/Del/2013**

*"On the facts and in the circumstances of the case the Ld. CIT(A) has erred in:-*

1. *The 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 deleting the penalty of Rs. 22,77,000/- levied by AO u/s 271(1)(c) of I.T. Act, 1961 for furnishing inaccurate particulars of income.*
3. *The appellant craves leave to add, alter or amend any/all grounds of appeal before or during the course of the hearing of the appeal."*

**C.O. No. 40/Del/2014**

- "1. *That the Ld. CIT(A) has erred in law and on facts in rejecting the ground of appeal filed by the appellant wherein it was pleaded that the order passed is barred by limitation and as such void ab-initio and bad in law.*
2. *That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in holding that the order of penalty passed by the Assessing Officer was tenable in law as the penalty proceedings stood revived in light of the provisions of section 275(1A) of the Income Tax Act.*
3. *That the appellant craves leave to add, alter amend or withdrawn why or all the grounds of cross-objection on or before the date of hearing.*

**(A.1)** During appellate proceedings in Income Tax Appellate Tribunal ("ITAT", for short), a written submissions was filed, vide letter dated 09/09/2019, relevant portion of which is reproduced as under:

*"September 09, 2019*

*The Registrar,  
Income Tax Appellate Tribunal,  
Loknayak Bhawan,  
Khan Market,  
New Delhi-110003*

**Subject: Dismissal of Appeal on Tax Effect-U.K Bose**

*Dear Sir,*

*With reference to subject matter, we would like to apprise you that the appeals mentioned hereunder and belonging to assessee appeared to fall in tax effect less than Rs. 50 Lacs as mentioned in the CBDT Circular no. 17/2019 dated 08.08.2019.*

<b>A.Y.</b>	<b>Appeal No.</b>	<b>U/s</b>	<b>Bench</b>	<b>Tax Effect</b>
1994-95	5064/D/13	271(1)(C)	A	22,77,000
1995-96	5065/D/13	271(1)(C)	A	12,51,400
1996-97	5066/D/13	271(1)(C)	A	22,77,000

*You are requested to take necessary action in order to request for disposal of such appeal on appropriate bench.*

*Thanks in advance for your necessary co-operation in this matter."*

**(A.2)** Copy of the aforesaid letter dated 09/09/2019 was also sent to the Departmental Representative ("Ld. DR", for short).

**(B)** At the outset, Learned Counsel for the Assessee brought to our notice, at the time of hearing, that tax effect in these appeals filed by Revenue 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 appeals are 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 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, learned Counsel for the assessee submitted that the appeals were not

maintainable. The Ld. Counsel for the Assessee also submitted that Cross Objections vide CO Numbers 38/Del/2014, 39/Del/2014 and 40/Del/2014 become infructuous on dismissal of the Departmental Appeals. Accordingly, all the aforesaid appeals of Revenue are dismissed being non maintainable and all the aforesaid Cross Objections are dismissed being infructuous 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 we part, we expressly clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961; seeking restoration of one or more of these appeals 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, these three appeals filed by Revenue are dismissed being not maintainable and the corresponding three Cross Objections filed by Assessee are dismissed being infructuous. Our decision was orally pronounced in Open Court after conclusion of hearing on the date of hearing. Now this detailed written order is pronounced in the Open Court on 19-09-2019.

Sd/-

**(H.S. SIDHU)  
JUDICIAL MEMBER**

Sd/-

**(ANADEE NATH MISSHRA)  
ACCOUNTANT MEMBER**

Dated: 19-09-2019  
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	