

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DLEHI

BEFORE SHRI G.S.PANNU, VICE PRESIDENT
AND
SHRI K. NARSIMHA CHARY, JUDICIAL MEMBER

ITA. No 2870/Del/2016

Assessment Year: 2009-10

DCIT, Central Circle-5
New Delhi

vs

Metro Ortem Ltd.,
134/4 & 135/5,
Near Ajit Arcade,
Kailash Colony, New Delhi
PAN AAACM3393H

(Applicant)

(Respondent)

Appellant by: Ms. Ashima Neb, Sr. Dr.

Respondent by: Ms. Soumya Singh, Advocate.

ITA.No 721/Del/2018

Assessment Year: 2014-15

ACIT, Central
Circle-10(2)

vs

M/s. Invictus Oncology P.Ltd.
465, 1st floor, Patpatganj Indl.
Area, Delhi
PAN AACCI5921K

(Applicant)

(Respondent)

Appellant by: Ms. Ashima Neb, Sr. Dr.

Respondent by: Ms. Shipra Walia, CA.

Date of hearing: 16/9/2019

Date of order : 16/9/2019

ORDER

PER BENCH:

1. These appeals are filed by the Department against the orders passed by the 1st appellate authority by way of impugned orders.

2. At the outset of the hearing itself, the Id. DR brought to our attention that CBDT vide Circular No. 17/2019 dated 08th August 2019 has decided that the revenue would not prefer any appeal before the Tribunal if the tax effect is less than Rs. 50 lakhs. Therefore, he pleaded that the appeal of the revenue be decided as per the Instruction of the CBDT.
3. We have heard the contention and perused the material on record. We find that the CBDT vide Circular No. 17/2019 dated 08th August 2019 has enhanced the monetary limit for filing the appeal by the department before Income Tax Appellate Tribunal, Hon'ble High Courts and Hon'ble Supreme Court. The relevant para of the aforesaid circular is reproduced as under :-

"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:

<i>S.No.</i>	<i>Appeals/SLPs in Income-tax matters</i>	<i>Monetary Limit (Rs.)</i>
<i>1.</i>	<i>Before Appellate Tribunal</i>	<i>50.00,000</i>
<i>2.</i>	<i>Before High Court</i>	<i>1.00.00.000</i>
<i>3.</i>	<i>Before Supreme Court</i>	<i>2.00,00.000</i>

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 y ears 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.*



5. *The same may be brought to the notice of all concerned.*

6. *This issues under section 268A of the Income-tax Act, 1961."*

4. We find that the tax effect involves in these appeals of the Revenue is below Rs. 50 lakhs. There is no dispute that the Board's instructions or directions issued to the Income-tax authorities are binding on those authorities, therefore, the Department should have withdrawn/not pressed the present appeal in view of the aforesaid instruction since the tax effect in the instant appeal is less than the amount of Rs. 50 lakhs. The issue of applicability of the above circular to pending appeals has been decided by the coordinate bench in Dinesh Madhavlal Patel [TS-469-ITAT-2019(Ahd)] **2019-TIOL-1556-ITAT-AHM dated 14th August, 2019 .**

5. In view of the above, Circular No. 17/2019 dated 08/08/2019 will apply to all pending appeals. Therefore the precedent, it is held that the appeals are not maintainable in the instant case as the tax effect is less than Rs. 50 lakhs. Accordingly, it is held that appeal filed by the revenue is not maintainable. We also hastened to add that certain times instances stated in para No. 10 of the CBDT Circular No. 3/2018 dated 11.07.2018 is not discernible from the assessment and appellate orders, therefore, in such cases, we also give liberty to revenue that if such instances comes to their notice than, revenue may file miscellaneous application with such evidences.
6. In the result, appeals filed by the department are dismissed.

Pronounced in open court on this the 16th day of September, 2019


(G.S.PANNU)
VICE PRESIDENT 


(K. NARSIMHA CHARY)
JUDICIAL MEMBER 

Dated: 16/9/2019

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Draft dictated	
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Order signed and pronounced on	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
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