

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

**BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No 3316 /Del./2016
(ASSESSMENT YEAR : 2011-12)**

ITO,
Ward 18(4),
New Delhi

vs.

M/s Nulon India Ltd.
Nulon House, Tribhuvan Complex,
Delhi Mathura Road, 10th Mile Stone,
Ishwar Nagar, New Delhi-110065.
(PAN : AAACN0067F)

**C.O. No.237 /Del./2016
(ASSESSMENT YEAR : 2011-12)**

M/s Nulon India Ltd.
Nulon House, Tribhuvan Complex,
Delhi Mathura Road, 10th Mile Stone,
Ishwar Nagar, New Delhi-110065.
(PAN : AAACN0067F)

vs.

ITO,
Ward 18(4),
New Delhi

APPELLANT)

(RESPONDENT)

ASSESSEE BY : Sh. K.R.Manjari, Adv.
REVENUE BY : Shri J.K.Mishra, CIT,DR

Date of Hearing : 05.09.2019
Date of Order : 25.09.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The Appellant, Income Tax Officer, Ward 18(4), New Delhi
(hereinafter referred to as 'the revenue') by filing the present
appeal sought to set aside the impugned order dated 31/03/2016

passed by the Commissioner of Income-tax (Appeals)-20, New Delhi qua the assessment year 2011-12. The assessee also filed cross objections challenging the impugned order passed by Ld. CIT(A), New Delhi

2. Perusal of the aforesaid appeal filed by the Revenue apparently show that the same is having low tax effect as per CBDT Circular No.17/2019 dated 8th August, 2019 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.50,00,000/- and this factual position has been fairly conceded by the Ld. D.R. The Ld. A.R. contended that the appeal of the Revenue may be dismissed in the light of CBDT Circular (supra).

3. We have heard the parties on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted as under:

***“Subject : Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 -Measures for reducing litigation.*”**

Reference is invited to the Circular No.3 of 2018 dated 11.07.2018 (the Circular) of Central Board of Direct Taxes (the Board) and its amendment dated 20th August, 2018 vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.

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 (in 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 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/ judgment involves more than one assessee, each assessee shall be dealt with separately."

4. In view of the CBDT Circular No.17/2019 dated 8th August, 2019 having retrospective effect as coordinate Bench of the Tribunal in case of *Dinesh Madhavlal Patel [TS-469-ITAT-2019(Ahd)] 2019-TIOL-1556-ITAT-AHM dated 14th August, 2019* has already decided the issue as to the applicability of the captioned circular to the pending appeals in affirmative and what has been discussed above, we are of the considered view that the aforesaid appeal is not maintainable because of low tax effect i.e. less than Rs.50,00,000/- hence, the aforesaid appeal filed by the Revenue is hereby dismissed having been become infructuous.

5. Briefly stated that facts necessary for adjudication of the controversy at hand are : Assessing Officer has disallowed an amount of Rs. 9,37,389/- claimed by the assessee as deduction on account of travelling expenses on foreign tour on the ground that the assessee has failed to prove that the expenses on account of foreign tours relates to business. AO also disallowed an amount of Rs. 12,56,520/- on account of depreciation of building on the ground that the assessee has failed to furnish the details of location of factory buildings – 67, factory building-05 and factory building – K. Assessing Officer also disallowed of Rs. 2,89,687/- being ¼ of the vehicle expenses of Rs. 11,58,747/- on the ground that there

is personal element in vehicle uses and thereby disallowed 25% of the expenses.

6. Assessee carried the matter before Ld. CIT(A) who has partly allowed appeal. Feeling aggrieved the revenue as well as assessee have come up by way of filing appeal as well as cross objections respectively. Appeal filed by the revenue stands dismissed on account of low tax effect in view of CBDT Circular no. 17/2019 dated 8th August, 2019. However, cross objection filed by the assessee are being disposed of on merit.

7. The Ld. AR for the assessee brought on record copy of order dated 25.06.2018 passed by Co-ordinate Bench of Tribunal in ITA no. 1908/Del/2016 and ITA No. 2264/Del/2016. Bare perusal of the order (supra) goes to prove that the issues raised in the cross objections have already been decided by the Tribunal in ITA no. 2264/Del/2016, A.Y. 2011-12 vide order dated 25.06.2018 and in view of the matter present cross objections are not maintainable as the assessee is not entitled to re-agitate the matter under the garb of present cross objection when its appeal has already been decided by the Tribunal. Consequently, cross objections filed by the assessee are dismissed being not maintainable.

8. In view of the matter the appeal filed by the revenue has been dismissed on account of low tax effect and cross objection filed by the assessee are also dismissed being not maintainable.

9. However, in case, the present appeal filed by the revenue is found to be maintainable at any stage for any technical reasons, the Department shall be at liberty to seek recall of this order under relevant provisions of law.

Order pronounced in open court on this 25th day of September, 2019.

**Sd/-
(R.K.PANDA)
ACCOUNTANT MEMBER**

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 25th day of September, 2019
BR**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-20, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**

Date of dictation	05/09/2019
Date on which the typed draft is placed before the dictating Member	05/09/2019
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	