

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

**BEFORE SHRI D. KARUNAKARA RAO, AM
AND SHRI PARTHA SARATHI CHAUDHURY, JM**

आयकर अपील सं. / ITA No.286/PUN/2017
निर्धारण वर्ष / Assessment Year : 2012-13

DCIT, Circle-1(1),
Pune.

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. Bajaj Allianz General Insurance
Company Ltd.,
GE Plaza, Airport Road,
Pune-411006.

PAN : AABC5730G

.....प्रत्यर्थी / Respondent

C.O. No.63/PUN/2018
(Arising out of ITA No.286/PUN/2017)
निर्धारण वर्ष / Assessment Year : 2012-13

M/s. Bajaj Allianz General Insurance
Company Ltd.,
1st Floor, Bajaj Allianz House,
Airport Road, Yerwada, Pune.

PAN : AABC5730G

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Circle-1(1),
Pune.

.....प्रत्यर्थी / Respondent

Revenue by : Shri S. B. Prasad
Assessee by : Shri Percy Pardiwala

सुनवाई की तारीख / Date of Hearing : 18.09.2019
घोषणा की तारीख / Date of Pronouncement : 18.09.2019

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

The appeal filed by the Revenue is against the order of the CIT(A)-1, Pune dated 23.11.2016 for the assessment year 2012-13. The assessee filed the **Cross Objection.**

ITA No.286/PUN/2017 – By Revenue

2. Before us, at the outset, ld. counsel for the assessee submitted that the appeal of the Revenue is liable to be dismissed on account of low tax effect in terms of latest CBDT Circular No.17/2019 [F.No.279/Misc.142/2007-ITJ (Pt)] dated 08th August, 2019 read with Circular No.3 of 2018 dated 11.07.2018. The ld. Counsel for the assessee submitted that the Revenue in appeal raised grounds assailing the findings of CIT(A) in deleting the additions. Thus, the tax effect on the said additions is less than Rs.50 lakhs.

3. The ld. DR for the Revenue fairly admitted that in the present appeal by the Revenue the tax effect is less than Rs.50 lakhs.

4. Both sides heard. The Revenue is in appeal against the order of CIT(A) in deleting the additions. Undisputedly, the tax effect involved in appeal is **less than** the monetary limit prescribed by the recent CBDT Circular No.17/2019 [F.No.279/Misc.142/2007-ITJ (Pt)] dated 08th August, 2019 read with Circular No.3 of 2018 dated 11.07.2018 for filing of appeals before the Tribunal by the Department. The CBDT vide circular dated 08-08-2019 (supra) has amended Para 3 of Circular No.3 of 2018 dated 11-07-2018 thereby enhancing monetary limit of tax effect from Rs.20 Lakhs to Rs.50 Lakhs for filing of appeals by the Department before the Tribunal. Thus, without going into merit of the issues raised in the appeal, in view of the CBDT Circular (supra) the present appeal of the Revenue is dismissed on account of low tax effect.

5. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for restoration of appeal, with the requisite material to

show that the appeal is protected by the exceptions prescribed in Para 10 of the Circular dated 11-07-2018 and its amendment dated 20-08-2018.

6. In the result, appeal of the Revenue is dismissed.

C.O. No.63/PUN/2018 – By Assessee

7. In the cross objection, the assessee raised three cross objections. Referring to cross objection no.1 and 2, ld. Counsel for the assessee submitted that they are not pressed. Accordingly, the same are dismissed as not pressed.

8. Referring to cross objection no.3 relating to the deduction in respect of education cess, ld. Counsel for the assessee submitted that the allowability of the said cess as allowable deduction is decided in favour of the assessee by virtue of the Hon'ble Rajasthan High Court's judgement in the case of Chambal Fertilisers And Chemicals Ltd. vs. CIT in D.B. Income Tax Appeal No.52/2018 dated 31.07.2018. The relevant lines of the said judgment (supra) are extracted hereunder :-

“12. We have heard counsel for the parties.

13. On the third issue in appeal no.52/2018, in view of the circular of CBDT where word "Cess" is deleted, in our considered opinion, the tribunal has committed an error in not accepting the contention of the assessee. Apart from the Supreme Court decision referred that assessment year is independent and word Cess has been rightly interpreted by the Supreme Court that the Cess is not tax in that view of the matter, we are of the considered opinion that the view taken by the tribunal on issue no.3 is required to be reversed and the said issue is answered in favour of the assessee.”

9. The above decision was given in favour of the assessee following the Circular F. No.91/58/66-ITJ(19) dated 18th May, 1967. Considering the above settled nature of the issue, we are of the opinion that the cross objection no.3 is required to be allowed in favour of the assessee. Thus, the cross objection no.3 is allowed.

10. In the result, the cross objection of the assessee is partly allowed.

11. Resultantly, the appeal of the Revenue is dismissed and the Cross Objection of the assessee is partly allowed as above.

Order pronounced on 18th day of September, 2019.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(D. KARUNAKARA RAO)
लेखा सदस्य/**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 18th September, 2019

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Pune.
4. The Pr. CCIT, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.