

**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:- 1666/Del/2017  
(Assessment Year: 2007-08)**

Deputy Commissioner of Income Tax, Central Circle- 28, New Delhi.	Vs.	M/s Bindal Sponge Industries Ltd., 301, Agarwal City Mall, Opp. M2K Cinema, Pitampura, Delhi.
<b>PAN No:</b> AACCB1322M		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue By** : Shri Sanjog Kapoor, Sr. DR  
**Assessee By** : None

**Per Anadee Nath Misshra, AM**

**(A)** This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-29, New Delhi, ["Ld. CIT(A)", for short], dated 21.12.2016 for Assessment Year 2007-08. Grounds taken in this appeal of Revenue are as under:

*"1. On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on facts in deleting the addition of Rs. 1,00,00,000/- made by the AO on account of unexplained credits u/s 68 of the IT Act.*

*2. On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on facts in holding that no date for recording reasons has been mentioned when the note sheet in the assessment folder clearly shows that the reasons were recorded on 25.03.2014 by AO and the approval was granted by CIT on 28.03.2014.*

*3. On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on facts in deleting the addition by holding that no further*

*enquiries were made by AO and he made addition by relying on the enquiries made by investigation wing. As the powers of CIT(A) are coterminous with those of AO, if the CIT(A) was of the view that AO had not made sufficient enquiry /investigation in the case then he could have directed AO to make further enquiries or could also have conducted independent enquiries.*

*4. On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on facts in deleting the addition of Rs.1,00,00,000/- made by the AO merely on a hyper technical ground that the reasons recorded for initiating proceedings u/s 148 were not communicated to the assessee without appreciating that the reasons for initiating proceedings u/s 148 were duly recorded by AO and the approval of CIT was also taken on the reasons recorded by the AO. Also the reasons for initiating proceeding u/s 148 were communicated to the assessee in the notices u/s 142(1) dated 06.01.2015 and 13.03.2015.*

*5. On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on facts in deleting the addition of Rs.1,00,00,000/- made by the AO without appreciating the fact that assessee did not cooperate with the department as neither it attended the assessment proceedings nor it filed any reply/ details via dak despite the service of all the notices u/s 143(2), 142(1) and 148 (CIT(A) has himself established in para 8 of his order that the notices were received by assessee in hand), and hence the AO was left with no option but to pass the order u/s 144 of the IT Act.*

*6. On the facts and in the circumstances of the case, the Ld.CIT(A) has erred in law and on facts in holding that the nothing was mentioned in the reasons for initiating proceedings u/s 148 about the approval by CIT whereas the approval of CIT was also taken on the reasons recorded on 28.03.2014 where in the CIT had mentioned in his own handwriting that the case was a fit case for reopening of assessment u/s 147 of the Act.*

*7. That the order of the CIT(A) is perverse, erroneous and is not tenable on facts and in law.*

*8. That the ground of appeal are without prejudice to each other.*

*9. That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.*

**(B)** At the outset, we noticed at the time of hearing that tax effect in this appeal is 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 ("ITAT", for short) 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. In view of the foregoing, this appeal is not maintainable. Having regard to the aforesaid, the Ld. Sr. DR for Revenue did not press the appeal. Therefore, this appeal is dismissed being not pressed and also being not maintainable 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 leaving, we clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961 seeking recall of this order and, for restoration of this appeal 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, this appeal by Revenue is dismissed. Our decision was orally pronounced in the Open Court after conclusion of hearing on the date of hearing. Now, this written order is pronounced in Open Court on 01-10-19.

Sd/-  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 01-10-19  
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	