

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 2371/Del/2017
(Assessment Year: 2012-13)**

Asstt. CIT, Circle-19(1), New Delhi	Vs	M/s Ooms Bitumen Modified Bitumen Pvt. Ltd., Unit No. 807, B Block, Unitech Business Zone, Nirvana Country, DLF Gold Course Extension Road, Secto-50, Gurgaon-122002 PAN-AAACO4150E
APPELLANT		RESPONDENT
Appellant by	Smt. Paramita M. Biswas, CIT DR	
Respondent by	None	

ORDER

PER ANADEE NATH MISSHRA, AM

[A]. This appeal has been filed by the Revenue against the order dated 14.02.2017 passed by Learned Commissioner of Income Tax(Appeals)-11, New Delhi [in short "Ld.CIT(A)"] pertaining to assessment year 2012-13. In this appeal, the tax effect is less than the monetary limit fixed by the Central Board of Direct Taxes (in short "CBDT") in its Circular No.17/2009 dated 08.08.2019. The Revenue has raised following ground of appeal:-

“i. On the facts and under the circumstances of the case, the Ld. CIT(A) has erred in law and the facts in deleting the disallowance of Rs. 1,07,62,793/- made by the Assessing Officer on account of foreign exchange loss by ignoring the fact that the assessee company has not produced/filed any confirmation from Ooms Avenhom Holding BC, Oom Production BV, Ooms International Holding BV and RSC Oostpoort and these are very old liabilities and the assessee company has enough income from operation at more than Rs. 53 Crores which has to be utilized for the payment of liabilities.”

[B]. At the outset, it was brought to the notice by us, 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 of 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. Therefore, in view of the foregoing, we are of the view that this appeal filed by Revenue is not maintainable. Accordingly this appeal is dismissed 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 the appeal if it is found that this appeal of Revenue is not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.

[D]. In the result, the 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 01.10.2019.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

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

Dated: 01.10.2019
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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Draft dictated	30.09.2019
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Approved Draft comes to the Sr.PS/PS	
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.	
Date of dispatch of Order.	
Date of uploading on the website	01.10.2019