

**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:- 3497/Del/2013  
(Assessment Year: 2008-09)**

ITO, Ward 2(1), Delhi.	Vs.	M/s Aradhana Foods and Juices Pvt. Ltd., 54, Lower Ground Floor, World Trade Centre, New Delhi-110001.
<b>PAN No:</b> AAFCA4917L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Date of hearing** : **19.09.2019**

**ITA No:- 3588/Del/2013  
(Assessment Year: 2009-10)**

DCIT, Circle 2(1), New Delhi.	Vs.	M/s Aradhana Drinks & Beverages (P) Ltd., No. 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.
<b>PAN No:</b> AAECA4452H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Date of hearing** : **19.09.2019**

**ITA No:- 4472/Del/2013**  
**(Assessment Year: 2008-09)**

ITO, Ward 2(1), New Delhi.	Vs.	M/s Aradhana Drinks & Beverages (P) Ltd., No. 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.
<b>PAN No:</b> AAECA4452H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.

**Date of hearing** : **19.09.2019**

**ITA No:- 5301/Del/2016**  
**(Assessment Year: 2012-13)**

DCIT, Circle- 3(1), New Delhi.	Vs.	M/s Aradhana Drinks & Beverages (P) Ltd., C/o Pepsico Holdings Pvt. Ltd., 4A, Global Business Park, DLF Phase-III, Gurgaon, Haryana-122002.
<b>PAN No:</b> AAECA4452H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.

**Date of hearing** : **19.09.2019**

**ITA No:- 3590/Del/2013**  
**(Assessment Year: 2009-10)**

DCIT, Circle 2(1), New Delhi.	Vs.	M/s Aradhana Foods and Juices Pvt. Ltd., 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.
<b>PAN No:</b> AAFCA4917L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.

**Date of hearing** : **19.09.2019**

**ITA No:- 5296/Del/2016**  
**(Assessment Year: 2012-13)**

JCIT, Special Range-1, New Delhi.	Vs.	M/s Aradhana Foods and Juices Pvt. Ltd., C/o Pepsico Holdings Pvt. Ltd., 4A, Global Business Park, DLF Phase-III, Gurgaon, Haryana-122002.
<b>PAN No:</b> AAFCA4917L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.

**Date of hearing** : **19.09.2019**

**ITA No:- 4706/Del/2013**  
**(Assessment Year: 2008-09)**

Aradhana Drinks and Beverages Private Limited, 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.	Vs.	ITO, Ward- 2(1), Central Revenue Building, New Delhi.
<b>PAN No:</b> AAECA4452H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Date of Hearing** : **19.09.2019**

**ITA No:- 2427/Del/2011**  
**(Assessment Year: 2007-08)**

Aradhana Foods & Juices Private Limited, 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.	Vs.	ITO, Ward- 2(1), CR Building, New Delhi.
<b>PAN No:</b> AAFCA4917L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Date of Hearing** : **19.09.2019**

**ITA No:- 3921/Del/2013**  
**(Assessment Year: 2008-09)**

Aradhana Foods & Juices Private Limited, 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.	Vs.	ITO, Ward- 2(1), CR Building, New Delhi.
<b>PAN No:</b> AAFC4917L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Date of Hearing** : **19.09.2019**

**ITA No:- 3922/Del/2013**  
**(Assessment Year: 2009-10)**

Aradhana Drinks and Beverages Private Limited, 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.	Vs.	The ACIT, Circle 2(1), Central Revenue Building, New Delhi.
<b>PAN No:</b> AAECA4452H		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Date of Hearing** : **19.09.2019**

**ITA No:- 3923/Del/2013**  
**(Assessment Year: 2009-10)**

Aradhana Foods & Juices Private Limited, 54, Lower Ground Floor, World Trade Centre, Barakhamba Road, New Delhi-110001.	Vs.	The ACIT, Circle 2(1), Central Revenue Building, New Delhi.
<b>PAN No:</b> AAFCA4917L		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Anmol Anand, Adv.  
Shri Yojit Pareek, Adv.  
**Revenue by** : Shri Sanjog Kapoor, Sr. DR  
**Date of Hearing** : **19.09.2019**

**CONSOLIDATED ORDER**

**Per Anadee Nath Misshra, AM**

**(A)** The tax effect in each of the aforementioned six appeals by Revenue (vide ITA numbers 3497/Del/2013, 3588/Del/2013, 4472/Del/2013, 5301/Del/2016, 3590/Del/2013 and 5296/Del/2016) is less than the monetary limit of Rs. 50,00,000/- fixed by the Central Board of Direct Taxes ("CBDT", for short) in its Circular No. 17/2019 dated 08.08.2019.

**(A.1)** The aforesaid two appeals filed by M/s Aradhana Drinks and Beverages Private Limited (vide ITA Numbers 4706/Del/2013 and 3922/Del/2013) and the aforesaid three appeals filed by M/s Aradhana Foods & Juices Private Limited (vide ITA Numbers

2427/Del/2011, 3921/Del/2013 and 3923/Del/2013) were, in the first-round of appellate proceedings in Income Tax Appellate Tribunal ("ITAT", for short) disposed off vide consolidated order dated 05.06.2017 whereby disputed matters in these appeals were restored to the file of the Assessing Officer ("AO", for short) with the direction to pass fresh Assessment Orders. On appeal by the two assessees is Hon'ble High Court of Delhi, U/s 260A of I.T. Act; orders were passed by Hon'ble High Court of Delhi, each dated 21.08.2018 wherein Hon'ble High Court upheld the aforesaid consolidated order dated 05.06.2017 of ITAT remanding the disputed issues in aforesaid appeals of the aforesaid two assessees, to the Assessing Officer for passing fresh Assessment Order. It is in this background that the aforesaid appeals of the aforesaid two assessees were listed by Registry for fresh hearing before us.

**(A.2)** In the factual background as discussed in foregoing paragraphs **(A)** and **(A.1)**; we are passing this consolidated order in respect of the aforesaid appeals filed by Revenue and by the aforesaid two assessees; for the sake of convenience and brevity. The followings Grounds are taken in the appeals of Revenue and the appeals of the aforesaid two assessees, referred to in the foregoing paragraphs **(A)** and **(A.1)** of this order:

**ITA No.- 3497/Del/2013**

- "1. The learned CIT(Appeals) has erred in facts and in law in considering the plastic crates under the head 'Bottles and Shells' eligible for depreciation @50%.*
- 2. The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.*

**ITA No.- 3588/Del/2013**

- "1. *The Ld. CIT(A) has erred in facts and in law in considering the plastic crates under the head 'Bottles and Shells' eligible for depreciation @50%.*
2. *The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.*

**ITA No.- 4472/Del/2013**

- "1. *On the facts and the circumstances of the case as well as in the law the learned CIT(Appeals) has erred in allowing depreciation on plastic craes @ 50% as against 15% allowed by AO.*
2. *The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.*

**ITA No.- 5301/Del/2016**

- "1. *On the facts and in the circumstances, Ld. CIT(A) has erred in law in classifying the crates used by the assessee as "containers made of glass or plastic used as Refill [Part-4 of III- Plant and machinery] and allowing depreciation @ 50% on such assets as against 15% allowed by the AO.*
2. *The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.*

**ITA No.- 3590/Del/2013**

- "1. *The Ld. CIT(A) had erred in facts and in law in considering the plastic crates under the head 'Bottles and Shells' eligible for depreciation @50%.*
2. *The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.*

**ITA No.- 5296/Del/2016**

- "1. On the facts and in the circumstances, Ld. CIT(A) has erred in law in classifying the crates used by the assessee as "containers made of glass or plastic used as Refill [Part-4 of III- Plant and machinery] and allowing depreciation @ 50% on such assets as against 15% allowed by the AO.*
- 2. The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.*

**ITA No.- 4706/Del/2013**

- "1. That on the facts and circumstances of the case, the CIT(A) has erred in upholding the ad hoc disallowance of Rs. 2,60,61,000/- being ten percent of the total operating expenditure of Rs. 26,06,10,000/- made by the Assessing Officer alleging the same to be unverified, unreasonable, and excessive without bringing anything on record in support thereof.*
- 2. That on the facts and circumstances of the case and in law, the CIT(A) in upholding the ad-hoc disallowance has erred in merely relied upon the order of the Commissioner of Income tax (Appeals)-V in Appellant's case for assessment year 2009-10, without adjudicating the submissions filed on merits.*

*Each of the above grounds is without prejudice and independent of each other. The Appellant craves leave to add, alter, vary omit, substitute or amend the above grounds of appeal, at any time before or at the time of hearing of the appeal."*

**ITA No.- 2427/Del/2011**

- "1. The Commissioner of Income Tax Appeals-V, New Delhi (hereinafter referred to as "the CIT(A)") has erred on facts and circumstances of the case and in law, in upholding the ad hoc disallowance of Rs. 2,90,86,700/- being ten percent of the total administrative expenditure of Rs. 29,08,67,000/- made by the Assessing Officer (hereinafter referred to as "AO") alleging the same to be unverified, unreasonable, and excessive without bringing anything on record in support thereof.*
- 2. The CIT(A) has erred on facts and circumstances of the case and in law, in not completely deleting the adhoc disallowance made by the AO in limiting the same to 10 percent of the total administrative expenditure.*

*The Appellant craves leave to add, alter, vary omit, substitute or amend the above grounds of appeal, at any time before or at the time of hearing of the appeal.”*

**ITA No.- 3921/Del/2013**

- "1. That the CIT(A) erred on facts and in law in upholding the order dated 27.12.2010 of the assessing officer assessing loss at Rs. 15,32,12,229, as against loss of Rs. 20,12,26,168 returned by the Appellant.*
- 2. That on the facts and circumstances of the case and in law, the CIT(A) merely relying upon the order of his predecessor, has erred in upholding the ad hoc disallowance of Rs. 3,58,31,000 being ten percent of the total operating expenditure of Rs. 35,83,10,000, made by the Assessing Officer alleging that the same to be unverified, unreasonable, and excessive without bringing anything on record in support thereof.*

*Each of the above grounds is without prejudice and independent of each other. The Appellant craves leave to add, alter, vary omit, substitute or amend the above grounds of appeal, at any time before or at the time of hearing of the appeal.”*

**ITA No.-3922/Del/2013**

- "1. That the CIT(A) erred on facts and in law in upholding the order dated 25.11.2011 of the assessing officer assessing loss at Rs. 7,80,83,600 , as against loss of Rs. 11,24,55,740 returned by the Appellant.*
- 2. That on the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the ad hoc disallowance of Rs. 3,08,93,900, being ten percent of the total operating expenditure of Rs. 30,89,39,000, made by the Assessing Officer alleging that the same to be unverified, unreasonable, and excessive without bringing anything on record in support thereof.*
- 3. That on the facts and circumstances of the case and in law, the CIT(A) has erred in merely relying upon the order in the case of Aradhana Foods & Juices Private Limited, without appreciating that the facts in the instant case are different from the facts of the that case and both the entities are distinct/ separate legal entities.*

*Each of the above grounds is without prejudice and independent of each other. The Appellant craves leave to add, alter, vary omit, substitute or amend the above grounds of appeal, at any time before or at the time of hearing of the appeal.”*

**ITA No.- 3923/Del/2013**

- "1. That the CIT(A) erred on facts and in law in upholding the order dated 25.11.2011 of the assessing officer assessing loss at Rs. 25,73,73,687, as against loss of Rs. 32,12,88,140 returned by the Appellant.*
- 2. That on the facts and circumstances of the case and in law, the CIT(A) merely relying upon the order for immediately preceding assessment year, has erred in upholding the ad hoc disallowance of Rs. 5,49,95,700, being ten percent of the total operating expenditure of Rs. 54,99,57,000 made by the Assessing Officer alleging that the same to be unverified, unreasonable, and excessive without bringing anything on record in support thereof.*

*Each of the above grounds is without prejudice and independent of each other. The Appellant craves leave to add, alter, vary omit, substitute or amend the above grounds of appeal, at any time before or at the time of hearing of the appeal."*

**(B)** At the outset, Learned Counsel for the Assessee brought to our notice, at the time of hearing, that tax effect in each of the appeals filed by Revenue, as already mentioned by us in foregoing paragraph **(A)** of this order; is below Rs. 50,00,000/-. Both sides, [Representatives of Revenue and the Assessee] were in agreement, at the time of hearing before us, that the tax effect in the present appeals are 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 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. Having regard to the aforesaid, learned Counsel for the assessee submitted that the appeals were not

maintainable. Accordingly, all the aforesaid appeals of Revenue referred to in foregoing paragraph **(A)** are dismissed being not pressed, and also non 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. **We expressly clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961; seeking restoration of one or more of these appeal(s) if it is found that appeal(s) of Revenue is / are not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.**

**(C)** As far as the aforesaid assessee's appeals mentioned in foregoing paragraph **(A.2)** of this order is concerned, these have already become infructuous because consequential Assessment Orders have already been passed by the Assessing Officer as directed by ITAT vide aforesaid consolidated order dated 05.06.2017 of ITAT read with aforesaid orders dated 21.08.2018 of Hon'ble High Court of Delhi. The learned Counsel for the Assessee filed copies of these consequential Assessment Orders; and informed that both the assesseees have accepted these consequential orders, and no appeals have been filed by the assesseees before Ld. CIT(A) against these consequential orders. In any case, the appeals of the assesseees U/s 260A of I.T. Act, against the aforesaid consolidated order dated 05.06.2017 of ITAT have been unsuccessful, and in the absence of any specific direction from Hon'ble High Court, no further relief can be allowed by ITAT in these appeals. In view of the foregoing, at this stage, these appeals are infructuous and need not be decided afresh by ITAT.

**(D)** In the result, the aforesaid six appeals filed by Revenue, referred to in foregoing paragraph **(A)** of this order are dismissed being not pressed, and also being not maintainable. Moreover, the five appeals filed by the aforesaid two Assessees referred to in foregoing paragraph **(A.1)** of this order; are dismissed being infructuous and as these need not be decided afresh in ITAT.

**(D.1)** This Order is pronounced in the Open Court on 01-10-2019

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

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

Dated: 01-10-2019  
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	