

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
' C ' BENCH : CHENNAI

**श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष
एवं एस जयरामन, लेखा सदस्य**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER &
SHRI S.JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./**I.T.A.No.1538/Chny/2016**

निर्धारण वर्ष /Assessment year :2007-08

Joint Commissioner of
Income Tax (OSD),
Corporate Circle-1(2),
Chennai 600 034.

**Vs. M/s.Bharathirajaa Hospital &
Research Centre Pvt Ltd.,
20,G.N.Chetty Road,
T.Nagar,Chennai 600 017.**

(अपीलार्थी/Appellant)

**[PAN AACCB 2146 F]
(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by: Mr.Arunraj, JCIT,D.R

प्रत्यर्थी की ओर से /Respondent by: Mr.N.Arjunraj,C.A for S.Sridhar

आयकर अपील सं./**I.T.A.No.1758/Chny/2019**

निर्धारण वर्ष /Assessment year : 2015-16

Deputy Commissioner of
Income Tax ,
Corporate Circle-2(1),
Chennai 600 034

**Vs. Smt.Ramya Bhaarat,
363,First South Main Street,
Sree Kaaleeswara Nagar,
Neelankarai,Chennai 600 115.**

(अपीलार्थी/Appellant)

**[PAN AOAPB 2648 K]
(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by: Mr.Arunraj, JCIT,D.R

प्रत्यर्थी की ओर से /Respondent by: Mr.N.Arjunraj,C.A for S.Sridhar

आयकर अपील सं./**I.T.A.No.1760/Chny/2019**

निर्धारण वर्ष /Assessment year :2014-15

Deputy Commissioner of
Income Tax ,
Corporate Circle-1(1),
Chennai 600 034

Vs. M/s.Archit Builders Pvt Ltd.,
G-78,Anna Nagar East,
Chennai 600 102.

(अपीलार्थी/Appellant)

[PAN AABCA 4151 G]
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr.Arunraj, JCIT,D.R
: None

सुनवाई की तारीख/Date of Hearing

: 25-09-2019

घोषणा की तारीख /Date of Pronouncement

: 25-09-2019

आदेश / ORDER

PER BENCH:

These three appeals are filed by various Assessing Officers, all these appeals call into question correctness of the relief granted to the taxpayers by the Commissioners of Income Tax (Appeals) and, most importantly, the tax effect involved in all these appeals does not exceed Rs.50,00,000/- in each of these appeals.

2. Vide CBDT circular No.17/2019 in F.No.279/Misc.142/2007-ITJ(Pt) dated 8th August, 2019, the income tax department has further liberalized its policy for not filing appeals against the decisions of the appellate authorities in favour of the taxpayers,

wherein tax involved is below certain threshold limits, and announced its policy decision not to file, or press, the appeals, before this Tribunal, against the appellate orders favourable to the assessee in the cases in which overall tax effect, excluding interest except when interest itself is in dispute, is Rs 50,00,000 or less.

3. In view of the above factual background and the concession by this CBDT circular, all these appeals must be dismissed as withdrawn and the related cross objections must be dismissed as infructuous.

4. This circular, only enhances the monetary limits and gives further relaxation. The old circular, beyond any dispute or controversy, categorically applied to the pending appeals as on the date of issuance of circular.

5. The circular dated 8th August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular No. 3/2018 (and subsequent amendment thereto), and all it does is to replace paragraph nos. 3 and 5 of the said circular. This is evident from the following extracts from the circular dated 8th August 2019:

“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:

S.No.	Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.)
1	Before Appellate Tribunal	50,00,000
2	Before High Court	1,00,00,000
3	Before Supreme Court	2,00,00,000

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/ judgement involves more than one assessee, each assessee shall be dealt with separately"

4. The said modifications shall come into effect from the date of issue of this Circular."

6. Clearly, all other portions of the circular no. 3 of 2018 (supra) have remained intact. The portion which has remained intact includes paragraph 13 of the aforesaid circular which is as follows:

"13. This Circular will apply to SLPs/ appeals/ cross objections/ references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/ cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed."

7. The Hon'ble Supreme Court in the case of The Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., in SLP No.21497/2019 dated 16.08.2019 reported in 2019(8)TMI 811(SC) has also applied the Circular No.17/2019 dated 08.08.2019 has dismissed the appeal holding as follows:

"Since the tax effect involved in the matter is less than Rs.2/- crores, going by the latest circular issued by the CBDT, we see no reason to interfere in this matter. The Special Leave Petition is dismissed, leaving all the questions of law open".

8. Learned Commissioner (DR) submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeals and restoration of the appeals in the cases (i) in which it can be demonstrated that the appeals are covered by the exceptions, and (ii) which are inadvertently included in this bunch of appeals, wherein the tax effect, in terms of the CBDT circular (supra), exceeds Rs 50,00,000. None opposes this prayer; we accept the same. We make it clear that the

appellants shall be at liberty to point out the cases which are wrongly included in the appeals so summarily dismissed, either owing to wrong computation of tax effect or owing to such cases being covered by the permissible exceptions- or for any other reason, and we will take appropriate remedial steps in this regard.

9. In the circumstances, respectfully following the principles laid down by the Hon"ble Supreme Court in the case of Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., referred to supra and in the light of the above discussions, all the appeals filed by the Revenue are found to be non-maintainable.

10. In the result, all the appeals filed by the Revenue are dismissed as withdrawn.

Pronounced in the open court after conclusion of hearing on 25th September, 2019.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/Accountant Member

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 25th September, 2019.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

3. आयकर आयुक्त (अपील)/CIT(A)

5. विभागीय प्रतिनिधि/DR

2. प्रत्यर्थी/Respondent

4. आयकर आयुक्त/CIT

6. गार्ड फाईल/GF