

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE SH. N.K. SAINI, VICE PRESIDENT AND
SH. N. K. CHOUDHRY, JUDICIAL MEMBER**

ITA No. 37/ASR/2018
Assessment Year : 2013-14

The Asst. CIT Circle-2, Jammu	Vs	Shri Sachin Verma Prop. M/s Verma Ornaments, Court Road, Ramban
PAN NO: ACVPV8160D		
Appellant		Respondent

Assessee by : Shri Vinamra Gupta, CA
Revenue by : Shri Charan Dass, DR

ITA No. 36/ASR/2018
Assessment Year : 2013-14

The Asst. CIT Circle-2, Jammu	Vs	M/s Hotel Ramban Regency, National Highway, Ramban
PAN NO: AAOFR4056M		
Appellant		Respondent

Assessee by : Shri Vinamra Gupta, CA
Revenue by : Shri Charan Dass, DR

ITA No. 426/ASR/2017
Assessment Year : 2012-13

The ITO Ward-3(3), Srinagar	Vs	Sh. Tasaduq Hussain Dev Prop. M/s Sarmad Telecommunication M/s Alpine Foods & M/s Alpine Milk Products, Humahama Budgam, Kashmir
PAN NO: ARAPD755IL		
Appellant		Respondent

Assessee by : Shri P.N. Arora, Advocate
Revenue by : Shri Charan Dass, DR

ITA No. 355/ASR/2019
Assessment Year : 2015-16

The DCIT Circle-3, Srinagar	Vs	M/s Ladakh Roadlines Shaheed Gunk Opp. CAPD Store Parimpora, Srinagar
PAN NO: BJQP80534A		
Appellant		Respondent

Assessee by : None
Revenue by : Shri Charan Dass, DR

ITA No. 354/ASR/2019
Assessment Year : 2014-15

The DCIT Circle-3, Srinagar	Vs	M/s Lands End Automotive Pvt. Ltd. Parimpora, Srinagar
PAN NO: BJQPB0534A		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITA No. 352/ASR/2019
Assessment Year : 2011-12

The DCIT Circle-3, Srinagar	Vs	M/s Hotel Mount View Pahalgam Kashmir
PAN NO: BJQPB0534A		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITA No. 351/ASR/2019
Assessment Year : 2009-10

The ITO Anantnag, Kashmir	Vs	Shri Ishaq Ahmad Khan S/o Ghulam Ahmad Khan R/o Churath, Kulgam Kashmir
PAN NO: CENPK6842M		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITSS No. 04/ASR/2019
Assessment Year : 1996 to 2002 (Block)

The DCIT Circle-3, Srinagar	Vs	Shri Altaf Ahmed Shah R/o Peerbagh, Airport Road Srinagar
PAN NO: AMRI10307D		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITSS No. 03/ASR/2019
Assessment Year : 1996 to 2002 (Block)

The DCIT Circle-3, Srinagar	Vs	Shri Syed Ali Shah Geelani Airport Road Hyderpora Srinagar
PAN NO: A2QPG8556N		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITA No. 793/ASR/2017
Assessment Year : 2009-10

The ITO Ward-2(1), Jammu	Vs	Sh. Arun Magotra Prop. Arun Trading Company 104 Patoli Magotrian, Jammu
PAN NO: AEJPM4029C		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITA No. 262/ASR/2017
Assessment Year : 2010-11

The DCIT Central Circle-II, Jalandhar	Vs	M/s Movie Box Records Pvt. Ltd. EK-216, Phagwara Gate, Jalandhar
PAN NO: AEJPM4029C		
Appellant		Respondent

Assessee by : Shri J.S. Bhasin

Revenue by : Shri Charan Dass, DR

ITA No. 318/ASR/2017
Assessment Year : 2014-15

The ITO Ward-5(2), Amritsar	Vs	M/s JNR Mitter Real Estate (P) Ltd. 9, Cantonment, Amritsar
PAN NO: AABCJ6487E		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITA No. 433/ASR/2016
Assessment Year : 2008-09

The ITO Ward-5(5) Amritsar	Vs	Shri Surjit Singh 29-D, Guru Amar Dass Avenue Ajnala Road, Amritsar
PAN NO: ALNPS4128D		
Appellant		Respondent

Assessee by : Shri Daljeet Singh Marwaha, CA

Revenue by : Shri Charan Dass, DR

ITA No. 441/ASR/2016
Assessment Year : 2010-11

The ITO Ward-4(1) Amritsar	Vs	Shri Baljinder Singh Chahal S/o Shri Natha Singh Vill, Ramana Chak, Amritsar
PAN NO: AHLPC4755E		
Appellant		Respondent

Assessee by : Shri P.N. Arora, Advocate

Revenue by : Shri Charan Dass, DR

ITA No. 559/ASR/2016
Assessment Year : 2013-14

The DCIT, Central Circle Jammu	Vs	Sh. Pradeep Nischal Prop. M/s Kanha Bangles, Lakhdara Bazar, Jammu
PAN NO: AEJPN4278C		
Appellant		Respondent

Assessee by : None

Revenue by : Shri Charan Dass, DR

ITA No. 557/ASR/2016
Assessment Year : 2010-11

The DCIT, Central Circle Jammu	Vs	Sh. Naresh Sabharwal C-36, Gulmohar Park, South Delhi
PAN NO: ADCPS8083N		
Appellant		Respondent

Assessee by : Shri Daljit Singh Marwaha, CA

Revenue by : Shri Charan Dass, DR

सुनवाई की तारीख/Date of Hearing : 14/10/2019

उद्घोषणा की तारीख/Date of Pronouncement : 14/10/2019

आदेश/Order

PER BENCH:

All the above appeals filed by the Department arising out of the separate orders passed by different CIT(A) as per the details given below:

Sl. No.	Appeal Number & Assessment Year	Date of CIT/ CIT(A) order	Office of CIT/ CIT(A)
1	ITA NO. 73/ASR/2018 (A.Y. 2013-14)	20/07/2017	CIT(A) J&K Jammu
2	ITA No. 36/ASR/2018 (A.Y. 2013-14)	25/07/2017	CIT(A) J&K Jammu
3	ITA No. 426/ASR/2017 (A.Y. 2012-13)	21/03/2017	CIT(A) J&K Jammu
4	ITA No. 355/ASR/2019 (A.Y. 2015-16)	01/03/2019	CIT(A)-1, Ludhiana
5	ITA No. 354/ASR/2019 (A.Y. 2014-15)	07/02/2019	CIT(A)-1, Ludhiana
6	ITA No. 352/ASR/2019 (A.Y. 2011-12)	05/02/2019	CIT(A)-1, Ludhiana
7	ITA No. 351/ASR/2019 (A.Y. 2009-10)	07/02/2019	CIT(A)-1, Ludhiana
8	ITA No. 04/ASR/2019 (A.Y. 1996-2002)	17/01/2019	CIT(A), Jammu
9	ITA No. 03/ASR/2019 (A.Y. 1996-2002)	14/01/2019	CIT(A), Jammu
10	ITA No. 793/ASR/2017 (A.Y. 2009-10)	29/06/2017	CIT(A) J&K Jammu
11	ITA No. 262/ASR/2017 (A.Y. 2010-11)	23/02/2017	CIT(A)-1, Jalandhar
12	ITA No. 318/ASR/2017 (A.Y. 2014-15)	24/03/2017	CIT(A)-2, Amritsar
13	ITA No. 433/ASR/2016 (A.Y. 2008-09)	31/05/2016	CIT(A)-2, Amritsar
14	ITA No. 441/ASR/2016 (A.Y. 2010-11)	30/05/2016	CIT(A)-2, Amritsar
15	ITA No. 559/ASR/2016 (A.Y. 2013-14)	09/08/2016	CIT(A)-5, Ludhiana
16	ITA No. 557/ASR/2016 (A.Y. 2010-11)	30/08/2016	CIT(A)-5, Ludhiana

2. During the course of hearing it was a common contention of the Ld. Counsels present on behalf of the different Assesseees that these appeals filed by

the Department are not maintainable in view of the Circular No. 17/2019 dt. 08/08/2019 issued by CBDT wherein the monetary limit for filing the appeals by the Department before the ITAT has been increased to Rs. 50,00,000/- from Rs. 20,00,000/-.

3. In the rival submissions the Ld. Sr. DR submitted that the Circular No. 17/2019 dt. 08/08/2019 is not clearly retrospective in as much as it specifically states in para 4 that “the said modification shall come into effect from the date of issue of this Circular”. It was stated that the aforesaid sentence clearly gives an impression that the said Circular is applicable after the date mentioned there in and thereafter the departmental appeals which come in the specified tax effect limit will not be filed. The Ld. Counsels appearing on behalf of the assesseees vehemently opposed the contention of the Ld. Sr. (DR) and they were unanimous in their arguments that the Circular must be held to have retrospective application and must equally apply to the pending appeals as well, since the present Circular only modifies the monetary limit earlier mentioned in Circular No. 3 of 2018 dt. 11/07/2018.

4. We have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case it is an admitted fact that the CBDT vide Circular No. 17/2019 enhanced the monetary limit to Rs. 50,00,000/- for not filing the appeal by the department before the ITAT, earlier this limit was specified at Rs. 20,00,000/- in the original Circular no. 03/2018 dt. 11/07/2018. Now vide the new Circular no. 17/2019 dt. 08/08/2019 the Tax Effect limit has been enhanced and this new Circular dt. 08/08/2019 read as under;

Circular No. - 17 of 2019

Date - 8th August 2019

Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 - Measures for reducing litigation.

Circular No. 3/2018 dated 11th July 2018 has been replaced by Circular No. 17/2019 dated 8th August 2019 to enhance Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court for reducing litigation.

Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.) [Previous Limit]	Monetary Limit (Rs.) (Revised Limit)
Before Appellate Tribunal	20,00,000	50,00,000
Before High Court	50,00,000	1,00.00.000
Before Supreme Court	1,00,00,000	2.00.00,000

- 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. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit
- 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
- In case where a composite order/ judgement involves more than one assessee, each assessee shall be dealt with separately.

5. From the contents of the aforesaid Circular it is crystal clear that the anomaly in the earlier Circular no. 3 of 2018 dt. 11/07/2018 at page 5 has been removed and the limit specified in para 3 of the earlier Circular has been enhanced. It is also not in dispute that the earlier Circular was applicable retrospectively to the pending appeals / cross objections and para nos. 12 & 13 of the original Circular no. 03/2018 dt. 11/07/2018 read as under:

12. It is clarified that the monetary limit of Rs. 20 lakhs for filing appeals before the IT AT would apply equally to cross objections under section 253(4) of the Act. Cross objections below this monetary limit, already filed, should be pursued for dismissal as withdrawn/ not pressed. Filing of cross objections below the monetary limit may not be considered henceforth. Similarly, references to High Courts and SLPs/ appeals before Supreme Court below the monetary limit of Rs. 50 lakhs and Rs. 1 Crore respectively should be pursued for dismissal as withdrawn/ not pressed. References before High Court and SLPs/ appeals below these limits may not be considered henceforth.

13. This Circular will apply to SLPs/ appeals/ cross objections/ references to be filed henceforth in SCIHCs/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.

6. Now the CBDT simply enhanced the monetary limit and the directions given earlier vide para nos. 12 & 13 of the Circular no. 3 / 2018 dt. 11/07/2018 are still intact which is crystal clear from the language of the Circular no. 17/2019 wherein it has been mentioned that there is enhancement of monetary limit and amendment to Circular no. 3 /2018 for reducing the litigation. We therefore are of the confirmed view that the amended Circular No. 17/2019 now issued by the

CBDT is also applicable to the pending appeals as has been specified in para 13 of the original Circular no. 3/2018 dt. 11/07/2018 and that the Department ought not have filed the appeals before the ITAT where the tax effect is Rs. 50 Lacs or less. For the aforesaid view we are also fortified by the decision dt. 14/08/2019 of the coordinate Bench i.e; ITAT, Ahmedabad Bench 'A' Ahmedabad in ITA No. 1398/Ahd/2004 for the A.Y. 1998-99 in the case of ITO, Ward-3(2) Ahmedabad Vs. Dinesh Madhavlal Patel, Ahmedabad & others wherein it has been held in para 5 to 7 as under:

5. Having considered the rival submissions and having perused the material on record, we do not have slightest of hesitation in holding that the concession extended by the CBDT not only applies to the appeals to be filed in future but it is also equally applicable to the appeals pending for disposal as on now. Our line of reasoning is this. The circular dated 8th August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular no 3 of 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. In view of the above discussions, we hereby hold that the relaxation in monetary limits for departmental appeals, vide CBDT circular dated 8th August 2019 (supra) shall be applicable to the pending appeals in addition to the appeals to be filed henceforth.

7. In view of the aforesaid discussion all the above appeals filed by the Department are dismissed.

8. In the result, all the above appeals of the Department are dismissed.

(Order pronounced in the open Court on 14/10/2019)

Sd/-
(N. K. Choudhry)
Judicial Member

Sd/-
(N.K. Saini)
Vice President

Date: 14/10/2019
AG

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, Amritsar
6. Guard File