

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

**BEFORE Ms. SUSHMA CHOWLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 5469/Del/2016
(Assessment Year: 2012-13)**

ACIT, Circle 19(1), New Delhi.	Vs.	M/s Offcom Systems Pvt. Ltd., C-20B, Ground Floor, Kalkaji, New Delhi-110019.
PAN No: AAACO0809N		
APPELLANT		RESPONDENT

**ITA No:- 5982/Del/2016
(Assessment Year: 2013-14)**

ACIT, Circle 19(1), New Delhi.	Vs.	M/s Offcom Systems Pvt. Ltd., C-20B, Ground Floor, Kalkaji, New Delhi-110019.
PAN No: AAACO0809N		
APPELLANT		RESPONDENT

**C.O. No.-17/Del/2017
Arising from ITA No:- 5982/Del/2016
(Assessment Year: 2013-14)**

M/s Offcom Systems Pvt. Ltd., C-20B, Ground Floor, Kalkaji, New Delhi-110019.	Vs.	Deputy Commissioner of Income Tax, Circle-1, 9(1), New Delhi.
PAN No: AAACO0809N		
APPELLANT		RESPONDENT

Revenue by : Ms. Rakhi Vimal, Sr. DR
Assessee by : Shri Dalip Kaul, CA

CONSOLIDATED ORDER

Per Anadee Nath Misshra, AM

(A) The aforementioned appeals by Revenue and Cross Objection ("CO", for short) by Assessee, are taken up together for the sake of convenience and brevity, are hereby disposed off through this Consolidated Order. Grounds taken in these appeals of Revenue and the Cross Objection of the Assessee are as under:

ITA No.- 5469/Del/2016

"1. On the facts and under the circumstances of the case, the Id. CIT(A) has erred in deleting the addition of Rs. 1,07,39,037/- made by the AO on account of advance for AMC without appreciating the facts that there were no advances for AMC without appreciating the facts that there were no advances appearing in their books of accounts.

2. On the facts and under the circumstances of the case, the Id. CIT(A) has erred in deleting the addition of Rs. 4,17,030/- made by the AO on account of commission paid without appreciating the facts that the expenses were not expended by the assessee in connection to its business.

3. The Appellant craves to be allowed to add any fresh ground(s) of appeal and/or delete or amend any of the ground(s) of appeal."

ITA No. 5982/Del/2016

"1. On the facts and under the circumstances of the case, the Id. CIT(A) has erred in deleting the addition of Rs. 69,01,570/- made by the AO on account of advance for AMC without appreciating the facts that there were no appearing in their books of accounts.

2. *On the facts and under the circumstances of the case, the Id. CIT(A) has erred in deleting the addition of Rs. 4,17,030/- made by the AO on account of commission paid without appreciating the facts that the expenses were not expended by the assessee in connection to its business.*

3. *The Appellant craves to be allowed to add any fresh ground(s) of appeal and/or delete or amend any of the ground(s) of appeal."*

CO No. 17/Del/2017

"The "RESPONDENT" objects to Ground No. 2 of the above appeal" relating to deletion of addition of Rs. 417030/- made by the Assessing Officer".

There is not such addition to the Income assessed U/S 143(3) of the Income Tax Act 1961. There is only one ground i.e., Ground No.1.

We are unable to understand from where this disallowance has been taken before this Hon'ble Court. Once the assessment is completed only such, addition can be taken up before Appellate forum which are there in the Assessment Order. There is no disallowance out of commission head of expenses.

Hence, we object the Ground No. 2 of the appeal."

(B) At the outset, Learned Authorized Representative ("AR", for short) for the Assessee brought to our notice, at the time of hearing, that tax effect in these appeals filed by Revenue 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 AR for the assessee submitted that the appeals were not maintainable. The learned Departmental Representative ("Ld. DR", for short) also did not press these appeals. Therefore, both these appeals filed by Revenue are dismissed, being not maintainable; and also being not pressed.

(B.1) The Ld. AR for the Assessee also submitted that the CO of assessee has been filed in support of order of Ld. CIT(A) to oppose the ground taken in Revenue's appeal. However, the CO has become infructuous and need not be decided on merits on dismissal of Revenue's appeal vide ITA No.- 5982/Del/2016. The Cross Objection was not pressed by Ld. Counsel of assessee, at the time of hearing. The Ld. DR for Revenue was in agreement with the aforesaid submissions of the Ld. Counsel for assessee. In view of the foregoing, and as both sides agree, the CO is dismissed being infructuous and having been not pressed.

(C) Before we part, 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 appeals 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, these two appeals filed by Revenue are dismissed being not maintainable and the corresponding Cross Objection filed by Assessee is dismissed being infructuous. Our decision was orally pronounced in Open Court after conclusion of hearing on the date of hearing. Now this detailed written order is pronounced in the Open Court on 18/10/2019.

Sd/-
(SUSHMA CHOWLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 18/10/2019
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	