

**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:- 6258/Del/2016
(Assessment Year: 2011-12)**

Dy. Commissioner of Income Tax, Circle-2, Meerut.	Vs.	M/s Nipro Glass India Pvt. Ltd., (now known as M/s Nipro Pharmapackaging India Pvt. Ltd., Plot No. 76, Village Fitkari Mawana Road, Meerut.
PAN No: AADCN1869Q		
APPELLANT		RESPONDENT

Revenue By : Smt. Rakhi Bimal, Sr. DR
Assessee By : None

Per Anadee Nath Misshra, AM

(A) This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals), Meerut, ["Ld. CIT(A)", for short], dated 02.09.2016 for Assessment Year 2011-12. Grounds taken in this appeal of Revenue are as under:

"1. Whether in the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals) has erred in law and fact in deleting the addition of Rs. 12,10,544/- made by the A.O. u/s 69 of the I.T. Act, 1961 on a/c of unexplained investment due to unverified advances to parties shown by the assessee, taking technical grounds that sec. 69 of the Act was not applicable and also ignoring

A.O.'s reasoning that no reply was received in response to the notice u/s 133(6) of the I.T. Act, 1961.

2. Whether in the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals) has erred in law and fact in deleting the addition of Rs. 55,28,430/- made by the A.O. on account of 5% N.P. of total business receipts after rejecting books of a/c u/s 145(3) of the Act, observing that the addition has been made of NP rather than GP whereas other additions have also been made, ignoring detailed reasoning of A.O. for rejection of books and also ignoring that other additions of creditors and advances to parties were not in the nature of additions under the head of expenditure, therefore addition of NP was justified. Otherwise also the rate of 5% N.P. was quite reasonable in view of facts and circumstances of the case.

3. That in the facts and circumstances of the case, the order of Id. Commissioner of Income Tax (Appeals), Meerut may be set aside and that of the AO be restored.

4. That the appellant craves leave to add, modify and or delete any ground(s) of appeal."

(B) At the outset, Learned Senior Departmental Representative [“Ld. Sr. DR”, for short] brought to our notice, 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 for 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. Having regard to the aforesaid, the Ld. Sr. DR for Revenue did not press the appeal. We are also of the view that this appeal is 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.

Accordingly, this appeal is dismissed being not pressed, and also being not maintainable.

(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 for restoration of this appeal 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, this 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 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	