

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'D', NEW DELHI**

**BEFORESHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

M.A. No.131/Del/2019
[Arising out of ITA No.3380/Del/2016]
Assessment Year: 2012-13

And

ITA No.3380/Del/2016
Assessment Year: 2012-13

ACIT, Circle-76(1), New Delhi	Vs.	M/s. Parsavnath Developers Ltd., 6 th Floor, Arunachal Building, 19, Barakhamba Road, New Delhi
		PAN :AAACP0743J
(Appellant)		(Respondent)

Appellant by	Shri S.R. Senapati, Sr.DR
Respondent by	S/sh. Adesh Kumar Jain &Paritosh Jain, Advocates

Date of hearing	27.09.2019
Date of pronouncement	14.10.2019

ORDER

PERO.P. KANT, AM:

The Revenue moved Miscellaneous Application under Section 254(2) of the Income-tax Act, 1961, seeking recall of the order dated 21.08.2018 passed by the Bench in ITA No.3380/Del/2016, dismissing the appeal on account of low tax effect in view of the CBDT Circular No.3/2018, dated 11.07.2018,

is hereby recalled and the appeal is heard today, i.e., 27.09.2019 for disposal. Accordingly, Miscellaneous Application is allowed.

ITA No.3380/Del/2016

2. The appellant, ACIT, Circle-76(1), New Delhi (hereinafter referred to as 'the Revenue') by filing the present appeal sought to set aside the impugned order dated 21.03.2016 passed by Commissioner of Income Tax (Appeals)-41, New Delhi, qua the assessment year 2011-12.

3. At the outset, the learned Sr. DR brought to our attention that CBDT, vide Circular No. 17/2019 dated 08th August, 2019, has decided that the Revenue would not prefer any appeal before the Tribunal, if the tax effect is less than Rs.50 lakhs. Therefore, he pleaded that the appeal of the Revenue be decided as per the Instruction of the CBDT.

4. We find that the CBDT vide Circular No. 17/2019 dated 08.08.2019, has enhanced the monetary limit for filing of appeals by the Department before the Income Tax Appellate Tribunal from Rs.20 lakhs to Rs.50 lakhs. The said circular also makes reference to the earlier Circular No. 3/2018, dated 11.7.2018 and, especially states that as a step towards further management of litigation, the Board has decided to enhance the monetary limit for filing of the appeals. This circular is not in supersession of the earlier circular but only amends the monetary limits as well as gives clarification with regard to paragraph 5 of the earlier circular. This, *inter alia*, means that all the other conditions mentioned in the earlier Circular No. 3 of 2018 dated 11.7.2018 will apply *mutatis mutandis* including that, it will apply to all the pending appeals. For the sake of ready reference, relevant portion

of the latest circular, i.e., Circular No. 17/2019, dated 08.08.2019, is reproduced as under:

“Subject: - 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.-

Reference is invited to the Circular No.3 of 2018 dated 11.07.2018 (the Circular) of Central Board of Direct Taxes (the Board) and its amendment dated 20th August. 2018 vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal. High Courts and SLPs/appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.

“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:

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

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.

5. The same may be brought to the notice of all concerned.

6. This issues under section 268A of the Income-tax Act, 1961.”

5. Further, CBDT vide Circular dated 20th August, 2019 (F. No. 279/19-93/2018-ITJ), has clarified that it will apply to all pending appeals. Thus, in view of the aforesaid circular, the appeal of the Revenue is dismissed as non-maintainable as the tax effect involved in the appeal is below Rs.50 lakhs. However, it is made clear that the Department is at liberty to file Miscellaneous Application for recalling of the order, if the tax effect is found to be more than the prescribed limit of Rs.50,00,000/- or any of the conditions etc., as available in the amendment carried out in para 10 of Circular No. 3/2018, dated 20.08.2018, is made out.

6. In the result, the Miscellaneous Application is allowed whereas the appeal of Revenue is dismissed.

Order is pronounced in the open court on 14thOctober,2019.

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

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 14thOctober, 2019.

RK/-(D.T.D.)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR