

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "Friday" NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
SHRI K. N. CHARY, JUDICIAL MEMBER**

**MA No.167 & 168/Del/2019
(In ITA No.4245 & 4246/Del/2018)
Assessment Year : 2009-10 & 2012-13**

Income Tax Officer TDS, Ward – 1 (3) (2), International Taxation, New Delhi	Vs.	Giza Builders & Developers P. Ltd. 1-E, Jhandewalan Extension, Naaz Cinema, Complex, New Delhi
		PAN No. AADCM5958P
(Appellant)		(Respondent)

**In ITA No.4245/Del/2018
Assessment Year : 2009-10**

Income Tax Officer TDS, Ward – 1 (3) (2), International Taxation, New Delhi	Vs.	Giza Builders & Developers P. Ltd. 1-E, Jhandewalan Extension, Naaz Cinema, Complex, New Delhi
		PAN No. AADCM5958P
(Appellant)		(Respondent)

Appellant by : Sh. Vijay Kumar Chadha, Sr. DR.
Respondent by : Sh. Satyajeet Goel, CA

Date of hearing : 01-11-2019
Date of pronouncement : 06-11-2019

ORDER

PER R. K. PANDA, AM :

The revenue through these Miscellaneous Applications requests the Tribunal to recall the exparte order passed by it dismissing the appeals filed by the revenue on account of low tax effect.

2. The Ld. DR referring to the miscellaneous application submitted that the tax effect involved in the appeals filed by the revenue are Rs.43,60,615/- for A. Y. 2008-09 and Rs.54,48,700/- for A.Y.2012-13. Since the tax effect involved in the grounds raised by the revenue were more than 20 lacs, therefore, a mistake has crept in the order of the Tribunal by dismissing both the appeals by relying on circular No.03/2018 he accordingly submitted that orders of the Tribunal be recalled and the appeals be heard afresh.

3. The Ld. Counsel for the assessee on the otherhand fairly conceded that the tax effect involved in the grounds raised by the revenue for both the years are more than Rs.20 lacs each and, therefore, a mistake has crept in the order of the Tribunal. He, however, submitted that the tax effect involved in the grounds raised by the revenue for A.Y. 2008-09 is below Rs. 50 lacs and therefore, in view of the recent CBDT Circular No. 17/2019 dated 08.08.2019, which is even applicable to pending appeals, the appeal filed by the revenue for A. Y. 2008-09 has to be dismissed, since the monetary limit involved in the grounds raised by the revenue is below Rs. 50 lacs.

5. We have considered the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that the tax effect involved in the grounds raised by the revenue in

both the appeals are above 20 lacs and, therefore, a mistake has crept in the order of the Tribunal in dismissing the appeals filed by the revenue on account of low tax effect on the basis of CBDT Circular No.03/2018. We, therefore, recall the order of the Tribunal for both the years.

6. ITA No.4245/Del/2018 is being decided in subsequent paragraphs on account of low tax effect. So far as ITA No. 4246/Del/2018 for A.Y.2012-13 is concerned, the registry is directed to issue notice to both the parties in regular course.

7. The miscellaneous applications filed by the revenue are accordingly allowed.

ITA No. 4245/Del/2018 (A. Y. 2009-10)

8. After hearing both the sides we find tax effect involved in the grounds raised by the revenue is below Rs. 50 lacs. Therefore, in view of the CBDT circular No.17/2019 dated 08.08.2019 wherein the CBDT has raised the monetary limit for filing of the appeals before the Tribunal to Rs. 50 lacs the appeal filed by the revenue is not maintainable. It has further been clarified by the CBDT that this circular is applicable even to pending appeals. Since the tax effect involved in the grounds raised by the revenue is admittedly below Rs.

50 lacs, therefore, the appeal filed by the revenue being not maintainable is dismissed.

9. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 06.11.2019.

Sd/-
(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Dated:06-11-2019.

Neha

Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
The DR, I.T.A.T., New Delhi

Assistant Registrar
ITAT, New Delhi

Date of dictation	04.11.2019
Date on which the typed draft is placed before the dictating Member	04.11.2019
Date on which the typed draft is placed before the Other member	06.11.2019
Date on which the approved draft comes to the Sr.PS/PS	06.11.2019
Date on which the fair order is placed before the Dictating Member for Pronouncement	06.11.2019
Date on which the fair order comes back to the Sr. PS/ PS	06.11.2019
Date on which the final order is uploaded on the website of ITAT	06.11.2019
Date on which the file goes to the Bench Clerk	06.11.2019
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	