

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI R.K. PANDA, ACCOUNTANT MEMBER**

**ITA No. 2731/Del./2016
(ASSESSMENT YEAR : 2005-06)**

JCIT (OSD),
CIRCLE-12(1), NEW DELHI
ROOM NO. 405,
C.R. BUILDING,
DELHI

(APPELLANT)

VS. M/S INDO ARYA CENTRAL
TRANSPORT LTD.,
TIVOLI COURT, FLAT#111,
1-C, BALLYGUNGE NEW
CIRCULAR ROAD,
KOLKATA – 700 019
(PAN: AAACI5611G)
(RESPONDENT)

Revenue by : Sh. Sanjog Kapoor, Sr. DR.
Assessee by : None

ORDER

PER H.S. SIDHU, JM :

The Appellant, by filing the present appeal sought to set aside the impugned order passed by the Ld. Commissioner of Income-tax (Appeals)-4, New Delhi qua the assessment year 2005-06.

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor its authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to

issue notice again and again to the assessee, therefore, we are deciding the present appeal *ex parte* qua assessee, after hearing the Ld. DR and perusing the records.

3. Perusal of the aforesaid appeal filed by the Revenue apparently show that the same is having low tax effect as per CBDT Circular No.17/2019 dated 8th August, 2019 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.50,00,000/- and this factual position has been fairly conceded by the Ld. D.R.

4. We have heard the Ld. DR and perused the material on record. Perusal of CBDT Circular (*supra*) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised. In view of the CBDT Circular No.17/2019 dated 8th August, 2019 having retrospective effect as coordinate Bench of the Tribunal in case of *Dinesh Madhavlal Patel [TS-469-ITAT-2019(Ahd)] 2019-TIOL-1556-ITAT-AHM dated 14th August, 2019* has already decided the issue as to the applicability of the captioned circular to the pending appeals in affirmative and what has been discussed above, we are of the considered view that the aforesaid appeal is not maintainable because of low tax effect i.e. less than Rs.50,00,000/- hence, the aforesaid appeal filed by the Revenue is hereby dismissed having been become infructuous. However, in case,

the present appeal is found to be maintainable at any stage for any technical reasons, the Department shall be at liberty to seek recall of this order under relevant provisions of law.

Order pronounced in open court on this 20th day of November, 2019.

Sd/-

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER
SRB

(H.S. SIDHU)
JUDICIAL MEMBER

Dated the 20th November, 2019

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)
- 5.CIT(ITAT), New Delhi.

NEW DELHI.

