

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

**BEFORE H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 5679/Del/2015
(Assessment Year: 2007-08)**

DCIT, Circle 18(2), New Delhi	Vs	M/s NSCC Finlease Pvt. Ltd., 352, 3 rd Floor, City Centre-II, Gulabi Bagh, New Delhi PAN-AABCN6476B
APPELLANT		RESPONDENT
Appellant by	Ms. Rakhi Vimal, Sr. DR	
Respondent by	Sh. Ashish Goel, C.A.	

ORDER

PER ANADEE NATH MISSHRA, AM

[A]. This appeal has been filed by Revenue against the order dated 28.07.2015 passed by Learned Commissioner of Income Tax(Appeals)-42, New Delhi [in short, "Ld.CIT(A)"] pertaining to assessment year 2007-08. In this appeal, the tax effect is less than the monetary limit fixed by the Central Board of Direct Taxes (in short "CBDT") in its Circular No.17/2009 dated 08.08.2019. The Revenue has raised following grounds of appeal:-

- 1. Whether in facts and circumstances of the case and in law, CIT(A) is justified in quashing reassessment proceeding u/s 147 of Income Tax Act (the Act) without considering provisions of section 147 the Act as amended w.e.f 1.4.1989 which stipulates that "reason to believe"⁵ is only requirement for reopening assessment within a period of 4 years from the end the relevant assessment year?*

2. *Whether in facts and circumstances of the case and in law, CIT(A) is justified in quashing reassessment proceeding u/s 147 of the Act by ignoring that although the investment in share capital was disclosed and accepted in the original assessment, but subsequent investigation and discovery by ACIT, Central Cir.-22, New Delhi revealed that the investment in share capital was not genuine?*
3. *Whether in facts and circumstances of the case and in law, the CIT(A) is justified in quashing notice u/s 148 of the Act by not considering ratio decidendi laid down by Hon'ble Supreme Court in case of CIT v Phool Chand Bajrang Lai v ITO (1993) 203 ITR 456 on similar facts and circumstances?*
4. *Whether in facts and circumstances of the case and in law the CIT(A) is justified in deleting addition of Rs. 1,00,00,000 and Rs. 2,50,000 made by the AO u/s 68 and 69C of the Act respectively without considering findings of the facts recorded by the AO having direct bearing on the issue?*
5. *Whether in facts and circumstances of the case and in law the CIT(A) is justified in deleting addition of Rs. 1,00,00,000 and Rs. 2,50,000 made by the AO u/s 68 and 69C of the Act respectively without Consider ratio decidendi laid down by Hon'ble Delhi High Court in case of CIT v M/s. N.R. Portfolio Pvt. Ltd. 2012- TIOL-1056-HC-DEL-IT on similar issue?*
6. *That the order of the CIT(A) is erroneous and is not tenable on facts and in law.*

[B]. At the outset, it was brought to the notice by learned Authorized Representative of the Assessee, 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. Therefore, in

view of the foregoing, we are of the view that this appeal filed by Revenue is not maintainable. The learned Departmental Representative also did not press the appeal. Accordingly, this appeal is dismissed being not pressed, and also 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.

[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 recall of this order and, for restoration of the appeal if it is found that this appeal of Revenue is not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.

[D]. In the result, the 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 04.12.2019.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER
Dated: 04.12.2019
SH

Sd/-

(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER