

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA Nos. 5525, 5527, 5529/Del/2011
Asstt. Years: 2005-06, 2007-08, 2009-10

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| ACIT Central Circle-3, Room No. 355, ARA Centre, E-2, Jhandewalan Extn. New Delhi . | Vs. | Dheeraj Kumar Jain C/215, Vivek Vihar New Delhi -110 095 PAN AADPJ4043R |
| (Appellant) | | (Respondent) |

| | |
|-----------------------|--------------------------------|
| Department by: | Ms. Nidhi Srivastava, CIT (DR) |
| Assessee by : | Shri Rakesh Gupta, Advocate |
| Date of Hearing | 28/11/2019 |
| Date of pronouncement | 28/11/2019 |

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

The appeals filed by the Revenue are directed against the order of Ld. Commissioner of Income Tax (Appeals)-II, Delhi dated 20.9.2011 pertaining to the assessment years 2005-06, 2007-08, 2009-10.

2. At the outset of the hearing itself, the ld. AR 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.

3. Now there is a latest CBDT Circular No. 17/2019 dated 08.08.2019, wherein the CBDT has further enhanced the monetary limit for filing of appeal by the Department before the Income Tax Appellate Tribunal from Rs. 20 lacs to Rs. 50 lacs. The said circular also make reference to the earlier Circular No. 3/2018 dated 11.7.2018 and specially 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 is, it will apply to all the pending appeals. For the sake of ready reference, the latest circular is reproduced hereunder :

*"F. No.279/Misc. 142/2007-ITJ(Pt.)
Government of India
Ministry of Finance
Department of Revenue
Central Board Direct Taxes
Judicial Section*

New Delhi. 8th August 2019

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:

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

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.”

4. 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 appeals of the Revenue are dismissed as non-maintainable because tax effect is below Rs. 50 lakhs.

5. In the result, appeals filed by the Revenue are dismissed.

Order pronounced in the Open Court on 28th November, 2019.

sd/-

sd/-

**(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: 28/11/2019

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi