

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'A' BENCH, MUMBAI**

**[Coram: Justice P.P Bhatt (President)
And Pramod Kumar (Vice President)]**

ITA Nos. 1538 & 1539/Mum/18
Assessment years: 2013-14 & 2014-15

**Deputy Commissioner of Income Tax Central Circle 1(2)
Mumbai****Respondent**

Vs

Aishwarya Rai Bachhan**Appellant**
*Prateeksha, 10th North South Road,
JVPD Scheme, Juhu, Mumbai 400 059
[PAN: ADLPR3537P]*

Appearances by

S. Michael Jerald *for the respondent*
Sunil Nahta *for the appellant*

Date of concluding the hearing: October 9th, 2019
Date of pronouncement : October 22, 2019

ORDER

Per Pramod Kumar, VP:

1. By way of these appeals, the Assessing Officer has challenged the correctness of the order dated 04th December, 2017 passed by the learned CIT(A)-47, Mumbai for the assessment years 2013-14 & 2014-15.

2. Grievances raised by the Assessing Officer are as follows:

'Whether on facts and circumstances of the case, the learned CIT(A) was justified in deleting the disallowance of Rs. 1,03,61,3297- made under section 14A of the Income Tax Act, 1961 ignoring the fact that the Auditor's report in form 3CD clearly shows qualifying remark of the Auditor for such disallowance which in itself is a cause for the Assessing Officer's dissatisfaction as the disallowance quantified u/s. 14A of the Income tax Act, 1961 by the Auditor is not incorporated by the Assessee in her computation of income and further amount quantified by the Auditors is not in consonance with the provisions with Rule 8D of the Income Tax Rule, 1962.'

3. When these appeals were called out for hearing, learned counsel for the assessee submitted that the present appeal of the Revenue needs to be dismissed on account of low tax effect in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019 whereby the monetary limits for filing the appeal by the Revenue before the Tribunal was enhanced from Rs.20 lakhs to Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeal of the Revenue is liable to be dismissed as non-maintainable as held by this Tribunal in the case of **ITO Vs. Dinesh Madhavlal Patel** in ITA No.1398/Ahd/2004 for AY 1998-99 vide a consolidated order dated 14.08.2019.

4. The learned Departmental Representative fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.

5. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position. As learned counsel rightly contends, this appeal of the Revenue is no longer maintainable in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019. The mandatory limit for cases in which Revenue can challenge the relief granted by the CIT(A) now stands enhanced

to Rs.50 lakhs. This concession granted by the Central Board of Direct Taxes (CBDT) is retrospective in effect inasmuch as it applies to all pending appeals as well. In view of the above position, the appeal of the Revenue is no longer maintainable and must be dismissed as such.

6. It is, however, made clear that on re-verification at the end of the Assessing Officer it comes out that the tax effect of more than Rs.50 lakhs is being involved in the appeal or the appeal falls within the exemption clause of the Circular, then the Revenue will be at liberty to file Miscellaneous Application to recall the Tribunal order. The application should be filed within time limit prescribed in the Act.

7. In the result, appeals of the Revenue are dismissed due to low tax effect. Pronounced in the open court today on the 22nd October, 2019.

Sd/-
Justice P.P Bhatt
(President)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 22nd day of October, 2019

Nishant Verma Sr.PS

Copies to: (1) The appellant (2) The respondent
(3) CIT (4) CIT(A)
(5) DR (6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Mumbai benches, Mumbai