

IN THE INCOME TAX APPELLATE TRIBUNAL "D" (Virtual Court Hearing), BENCH KOLKATA

BEFORE SHRI P.M. JAGTAP, V.P & SHRI S. S. GODARA, JM

**I.T.A Nos.8&9/Kol/2019
(Assessment Years: 2011-12 & 2012-13)**

ITO, Ward-1(3), Asansol	vs.	M/s Crony Enterprise C/o-Nitish Pal, Chakdola More, Bahadurpur, Burdwan-713362.
PAN/GIR No. : AAFFC0939H		
(Appellant)	..	(Respondent)

Appellant by	Smt. Ranu Biswas, Addl. CIT
Respondent by	Shri U. Dasgupta, Advocate

Date of hearing	10.06.2020
Date of pronouncement	22.07.2020

ORDER

Per S. S. Godara:

These two Revenue's appeals for assessment years 2011-12 & 2012-13 arise against the Commissioner of Income Tax (Appeals), Asansol's separate orders; both dated 29.10.2018, passed in case no.183/CIT(A)/ASL/Wd-1(3)/Asl/14-15 & 47/CIT(A)/ASL/Wd-1(3)/Asl/15-16; respectively, involving proceedings u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act').

Heard both the parties. Case files perused.

2. It is seen at the outset that the tax effect on the disputed additions before us is less than Rs. 50 lacs as per CBDT's latest Circular No17/2019 dated 08.08.2019. It is pertinent to reproduce the relevant portion of the said Circular as follows:-

"2 . As a step toward 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. We find that intention behind the Circular No17/2019 dated 08.08.2019 needs to be understood in the following perspective:-

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-à-vis where composite order for more than one assessment year 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, 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 assessments 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/judgment involves more than one assessee, each assessee shall be dealt with separately.”

4. On perusal of the Circular No. 17/2019 dated 08.08.2019 and the materials available on record, we do not see this case falling under any of the exceptions contemplated in the said circular *per se*. We also find that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. *Hon'ble apex court in Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)* has settled the law that CBDT's circulars are very much binding on revenue authorities. We thus hold that this Revenue's appeal raising sole issue deserves to be dismissed in terms of low tax effect. We make it clear that it shall very much open for the Revenue to seek

necessary rectification in case it is found that any of the appeal involve operations of exception clauses in the tax effect circular as per law.

5. These two Revenue's appeals are dismissed for involving lower than the prescribed minimum tax effect.

Order is pronounced in the open court on 22.07.2020.

Sd/-
(P.M. JAGTAP)
VICE-PRESIDENT

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 22/07/2020

RS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant- ITO, Ward-1(3), Asansol
2. The Respondent- M/s Crony Enterprise
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.