

IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI 'E-COURT' AT KOLKATA

Before Shri S.S, Godara, JM & Dr. A.L. Saini, AM

ITA No.288/Ran/2019
Assessment Year:2011-12

ACIT, Circle-1, Jamshedpur	बनाम / V/s.	M/s Bharat Engg. & Body Building Co. Pvt. Ltd. Santokh Mansion, R-Road, Bistupur, Jamshedpur-831001.
PAN No.AACB6622N		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri A.K. Mohanti, Addl. CIT
प्रत्यर्थी की ओर से/By Respondent	Shri Yogesh Kr. Agarwal, AR
सुनवाई की तारीख/Date of Hearing	22-07-2020
घोषणा की तारीख/Date of Pronouncement	22-07-2020

आदेश /O R D E R

Per S. S. Godara(Oral):

This Revenue's appeal for assessment year 2011-12 arises against the Commissioner of Income-tax (Appeals), Jamshedpur's order dated 03.10.2019 passed in case No.CIT(A),Jamshedpur/10145/2018-19 involving proceedings u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961; (in short 'the Act').

Heard both the parties. Case file persued.

2. It is seen at the outset that the tax effect on the disputed additions before us is Rs.29,48,787/- i.e 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:

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

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 of Rs.29,48,787/- 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. This Revenue's appeal is dismissed for involving lower than the prescribed minimum tax effect.

Order pronounced in open court on 22/07/2020.

Sd/-
(A. L. Saini)
Accountant Member

Sd/-
(S.S. Godara)
Judicial Member

Kolkata;
Date: 22/07/2020
RS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant- ACIT, Circle-1, Jamshedpur
2. प्रत्यर्थी/Respondent- M/s Bharat Engg. & Body Building Co. Pvt. Ltd.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाइल / Guard file.

//True Copy//

By order/आदेश से,

Sr. Private Secretary