

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

**BEFORE,
SHRI G.S. PANNU, VICE PRESIDENT
AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**I.T.A No.402/Del/2016
(ASSESSMENT YEAR 2012-13)**

Asst. CIT, Central Circle-07, New Delhi.	Vs.	M/s Devyani Food Industries Pvt. Ltd. R/o F-2/7, Okhla Industrial Area, Phase-1, New Delhi. PAN-AABCD 7572N
(Appellant)		(Respondent)

Appellant By	Sh. Divyansh Jain, Adv.
Respondent by	Sh. Prakash Dubey, SR.DR
Date of Hearing	14.01.2021
Date of Pronouncement	14.01.2021

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the Revenue against order dated 18.11.2015 passed by the Learned Commissioner of Income Tax (Appeals)-24, New Delhi {CIT(A)} for Assessment Year 2012-13.

2.0 The Ld. Authorized Representative (AR) pointed out that the present appeal is to be withdrawn by the Department in terms of circular No.17/2019 dated 08.08.2019 as the tax effect involved is Rs.50 Lacs.

3.0 The Ld. Departmental Representative (DR) submitted that the tax effect in the present appeal is Rs.50 Lacs so it cannot be said that the tax effect is below Rs.50 Lacs and, therefore, the circular would not apply. Further, the Ld. DR also submitted that the Circular enhancing the monetary limit for filing of the Departmental appeals was dated 8th August, 2019 and, therefore, it would apply to appeals filed subsequent to the issuance of the said Circular, whereas the present appeal of the Department was filed on 18.11.2015 when the momentary limit for filing the appeals before the Income Tax Appellate Tribunal was Rs.20 Lacs only. It was submitted that, therefore, the present appeal of the Department is maintainable and the same does not require to be withdrawn.

4.0 We have heard the rival submissions. Though, the CBDT Circular dated 8th August, 2019 (supra) enhancing the monetary limit for Departmental Appeals states that the modifications shall

come into effect from the date of issue of the Circular, it must essentially be interpreted to mean that the enhanced limits apply not only to the new appeals to be filed but also to appeals pending for disposal as on the date of issuance of the above said Circular. It is also our considered opinion that this Circular has to be read in conjunction with Circular No.3/2018 dated 11th July, 2018 and subsequent amendments thereto. Therefore, paragraph No.13 of Circular 3/2018 (supra) remains operational which states that this Circular will apply to SLPs/ Appeals/ Cross Objections/References to be filed henceforth in Supreme Court/High Courts/ Tribunal and it shall also apply retrospectively to pending SLPs/Appeals/Cross Objections/ References. This Circular also states that pending appeals below the specified tax limit may be withdrawn/not pressed. Accordingly, we hold that relaxation in the monetary limit for Departmental Appeals vide CBDT Circular dated 8th August, 2019 (supra) shall be applicable to the pending appeals in addition to the appeals to be filed henceforth. Therefore, we find no merit on the contention of the Ld. SR. DR that the captioned Departmental Appeal is maintainable. We also do not agree with the contention of

the Ld. DR that since the tax effect in the captioned appeal is Rs. 50 Lacs, the same not being less than Rs. 50 Lacs, the appeal is maintainable for the reason that the Circular states that the Department should not file appeals before the Tribunal if the tax effect does not exceed Rs. 50 Lacs. Admittedly, the tax effect in the captioned appeal does not exceed Rs.50 Lacs and, therefore, this contention of the Ld. DR also fails. Accordingly, we deem it fit to dismiss the captioned appeal.

5.0 Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for re-institution of appeal, if the requisite material is brought to show that the appeal is protected by the exceptions prescribed in para-10 of the Circular dated 11.07.2018.

6.0 In the final result, the appeal of the Revenue stands dismissed.

Above decision was announced on conclusion of Virtual Hearing on 14th January, 2021.

Sd/-
(G.S.PANNU)
VICE PRESIDENT

Dated:14/01/2021
PK/Ps

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI