

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'I-1', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. K. NARASIMHA CHARY, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.3430/Del/2016)  
(for Assessment Year : 2010-11)

Deputy Commissioner of Income Tax, Circle-2, Gurgaon.  PAN No. AACCK 4960 A <b>(APPELLANT)</b>	Vs.	Kendle India Pvt. Ltd., Office No.438, 4 <sup>th</sup> Floor, Regus Centre, (Saket Pvt. Ltd.) Rectangle One, Commercial Complex, D-4, New Delhi – 110 017  <b>(RESPONDENT)</b>
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Assessee by	Shri T. D. Singh Shri Navnit Kumar, Adv.
Revenue by	Adjournment Application

Date of hearing:	04/02/2021
Date of Pronouncement:	04/02/2021

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the Revenue is directed against the order dated 18.03.2016 passed by the Commissioner of Income Tax (Appeals)-1, Gurgaon relating to Assessment Year 2010-11.

2. Revenue has raised the following grounds of appeals:

1. *Ld. CIT(A) has erred on facts and in law in restriction the disallowance of entire amount of Rs.13068947/-, made by the AO, to 50%, without appreciating the fact that Arm's Length price in this transaction was determined to be 'nil' as no uncontrolled enterprise would have paid any amount for services which do not tantamount to Intra Group Services with comparable benefits.*
2. *Ld CIT(A) has erred on facts and in law in directing the TPO TO recalculated the interest on LIBOR plus 150 basis point ignoring the fact that the TPO had applied the interest rate at 14.88% by applying the most appropriate method for calculating Arm's Length Price.*
3. *Ld CIT(A) has erred on facts and in law in deleting the disallowance of interest of Rs.2,68,810/- paid on late deposit of TDS, which was not an allowable deduction.*
4. *That the appellant carves for the permission to add, delete or amend the grounds of appeal before or at the time of hearing of appeal."*

3. Before us, adjournment was sought by Revenue to which, Ld. A.R. submitted that in the impugned appeal of Revenue, the tax involved is less than the monetary limit of Rs.50 lakh and therefore, the appeal is not maintainable. He also pointed to the calculation of the tax effect in the appeal.

4. Considering the aforesaid, we reject the request for adjournment and proceed to dispose of the appeal after considering the material on record.

5. We have heard the Ld. AR and perused the material on record. On perusing the grounds of appeal raised by the Revenue, we find that Revenue is aggrieved by the order of Learned CIT(A) in respect of the relief given by him. We find that CBDT vide Circular No. 3/2018 dated 11.07.2018 had increased the limit for filing appeal before ITAT at Rs. 20 lakhs. The limit for filing appeals before ITAT and other authorities were enhanced by CBDT vide Circular No.17 of 2019 dated 08.08.2019. As per the aforesaid CBDT Circular dated 08.08.2019, no Department appeals are to be filed against relief given by the Learned CIT(A) before the Income Tax Appellate Tribunal unless the tax effect, excluding interest, exceeds Rs.50 lakhs. We find that in the present case, the tax effect involved is less than Rs.50 lakhs. In the absence of any material placed on record by the Revenue to demonstrate that the issue in the present appeal is covered by exceptions provided in para 10 of the aforesaid CBDT Circular of 11.07.2018, we are of the view that the monetary limit prescribed by the instructions of the CDBT Circular dated 08.08.2019 would be applicable to the present appeal of the Department. We therefore hold the present appeal of Revenue to be not maintainable on account of low tax effect. However, in case there is any error in the computation of the tax effect involved or if for any reason, the aforesaid CBDT Circular is not applicable, it would be open to the Revenue to seek revival of the appeal. **Thus the appeal of the Revenue is dismissed.**

**6. In the result, the appeal of Revenue is dismissed.**

**Order pronounced in the open court on 04.02.2021,  
immediately after conclusion of the hearing of the matter in  
virtual mode.**

**Sd/-**

**(K. NARASIMHA CHARY)  
JUDICIAL MEMBER**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 04.02.2021

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**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI