

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B' KOLKATA
[BEFORE SHRI J. SUDHAKAR REDDY, HON'BLE ACCOUNTANT MEMBER &
SHRI A.T. VARKEY, HON'BLE JUDICIAL MEMBER]**

I.T.A. No. 29/Kol/2020
Assessment Year: 2005-06

DCIT, CIRCLE - 9(1), Kolkata.....Appellant
Room No. 22, 5th Floor, Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata - 700 069.

Vs

M/s. Valley Refractories Ltd.....Respondent
40B, Vivekananda Road, 1st Floor,
Kolkata - 700 007.
[PAN: AAACV 9134 B]

Appearances by:

Smt. Ranu Biswas, Addl. CIT appearing on behalf of the Assessee.

Shri A.K. Tibrewal, AR appearing on behalf of the Revenue.

Date of concluding the hearing : April 1st, 2021

Date of pronouncing the order : April 6th, 2021

ORDER

PER J. SUDHAKAR REDDY, AM:

Admittedly the tax effect in this Revenue appeal, is less than Rs.50,00,000/-. In Circular No. 17/2019, dated 08.08.2019 vide F. No. 279/Misc.142/2007-ITJ(Pt.), the CBDT has modified Circular No. 3 of 2018 dated 11.07.2018. Further, the CBDT in its circular F. No. 279/Misc./M-93/2018-ITJ, dated 20.08.2019, has clarified that the revised monetary limits, so mentioned in Circular No. 17/2019 is applicable to all pending appeals. As per these circulars all the Revenue appeals filed before the ITAT, having tax effect of less than Rs.50,00,000/- have to be treated as withdrawn.

2. The Ahmedabad Bench of the ITAT in the case of *ITO vs. Dinesh Madhavlal Patel* in ITA No. 1398/Ahd/2004, Assessment Year 1998-99, order dated 14.08.2019, while disposing off the appeal along with 627 others appeals, held as follows:-

"5. Having considered the rival submissions and having perused the material on record, we do not have slightest of hesitation in holding that the concession extended

by the CBDT not only applies to the appeals to be filed in future but it is also equally applicable to the appeals pending for disposal as on now. Our line of reasoning is this. The circular dated 8th August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular no 3 of 2018 (and subsequent amendment thereto), and all it does is to replace paragraph nos. 3 and 5 of the said circular. This is evident from the following extracts from the circular dated 8th August 2019:

2. As a step towards 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. 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-a-vis where composite order for more than one assessment years 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 in 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 assessment 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/ judgement involves more than one assessee, each assessee shall be dealt with separately"

4. The said modifications shall come into effect from the date of issue of this Circular.

6. Clearly, all other portions of the circular no. 3 of 2018 (supra) have remained intact. The portion which has remained intact includes paragraph 13 of the aforesaid circular which is as follows:

13. This Circular will apply to SLPs/ appeals/ cross objections/references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/ cross objections/references. Pending appeals below the specified tax limits in pare 3 above may be withdrawn/ not pressed.

7. In view of the above discussions, we hereby hold that the relaxation in monetary limits 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.

8. *Learned Commissioner (DR) then submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeals and restoration of the appeals in the cases (i) in which it can be demonstrated that the appeals are covered by the exceptions, and (ii) which are inadvertently included in this bunch of appeals, wherein the tax effect, in terms of the CBDT circular (supra), exceeds Rs 50,00,000. None opposes this prayer; we accept the same. We make it clear that the appellants shall be at liberty to point out the cases which are wrongly included in the appeals so summarily dismissed, either owing to wrong computation of tax effect or owing to such cases being covered by the permissible exceptions- or for any other reason, and we will take appropriate remedial steps in this regard.*

9. *In the light of the above discussions, all the appeals stand dismissed as withdrawn. As the appeals filed by the Revenue are found to be non-maintainable and as all the related cross-objections of the assessee arise only as a result of those appeals and merely support the order of the CIT(A), the cross objections filed by the assessee are also dismissed as infructuous. Ordered, accordingly."*

3. Respectfully following the same and while giving liberty to the parties as per Para 8 of the order of the Ahmedabad Bench of the ITAT (supra), we dismiss this appeal of the Revenue as withdrawn.

4. In the result, the appeal of the Revenue is dismissed.

Order Pronounced in the Open Court on 6th April, 2021.

Sd/-
 (A.T. VARKEY)
 JUDICIAL MEMBER

Sd/-
 (J. SUDHAKAR REDDY)
 ACCOUNTANT MEMBER

Dated: 06/04/2021
 Biswajit, Sr. PS

Copy of order forwarded to:

1. DCIT, CIRCLE-9(1), Kolkata.
2. M/s. Valley Refractories Ltd., 40B, Vivekananda Road, 1st Floor, Kolkata – 700 007.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar/DDO
 ITAT, Kolkata