

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'D', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 6696/Del/2017  
(Assessment Year : 2014-15)

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| ACIT<br>Circle – 61(1)<br>New Delhi - 110002<br><br>PAN No. AAGFK 5459 H<br><b>(APPELLANT)</b> | Vs. | Khaitan & Co. LLP<br>1105, Ashoka Estate,<br>24, Barakhamba Road<br>New Delhi - 110001<br><br><b>(RESPONDENT)</b> |
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|-------------|--|
| Assessee by | Shri Indruj Singh Rai, Adv.<br>Shri Naveen Kumar, C.A. |
| Revenue by  | Shri Satpal Gulati, CIT-DR                             |

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|------------------------|------------|
| Date of hearing:       | 20.07.2021 |
| Date of Pronouncement: | 20.07.2021 |

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the Revenue is directed against the order dated 23.08.2017 passed by the Commissioner of Income Tax (Appeals)-20, New Delhi relating to Assessment Year 2014-15.

2. Revenue has raised the following grounds of appeals:

- “1. On the fact and in the circumstances of the case and in law, the Ld CIT(A) has erred in holding that the credit be allowed for the TDS withheld in Japan even though the income of the assessee was not taxable in Japan.

2. *On the fact and in the circumstances of the case and in law, the Ld CIT(A) has erred in ignoring the fact that, even if the income of the assessee cannot be characterized as falling in the ambit of Article 14 (i.e. Independent Professional Services) of Indo-Japan treaty, that does not automatically imply that the income should fall in the ambit of Article 12 (i.e. Fees for technical services).*
3. *On the fact and in the circumstances of the case and in law, the Ld CIT(A) has erred in ignoring the fact that, the legal services provided by the assessee cannot be characterized as technical or consultancy services. If legal professional services were to be characterized as technical services, then there was no requirement for the treaty to have a separate article (Article 14) on income derived in respect of professional services.*
4. *The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing.*

*It is prayed that the order of the Ld CIT(A) is contrary to the facts on record and the settled position of law; and the order of the AO deserves to be restored.”*

3. Before us, at the outset, 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. Learned DR did not controvert the submissions made by Learned AR.

4. We have heard the rival parties 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 CDBT 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 CDBT 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 CDBT 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.**

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

**Order pronounced in the open court on 20.07.2021, immediately after conclusion of the hearing of the matter in virtual mode.**

**Sd/-**

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Date:- 20.07.2021

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**Copy forwarded to:**

1. Appellant

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI