

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI G.S.PANNU, PRESIDENT &
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.3904/Del/2018
Assessment Year : 2007-08**

ACIT, Central Circle-27, New Delhi.	vs	Apoorva Extrusion Pvt.Ltd., 305, 3 rd Floor, Bhanot Corner, Pamposh Corner, Greater Kailash-I, New Delhi-110048. PAN-AAACA2120L
APPELLANT		RESPONDENT
Appellant by		Sh. Satpal Gulati, CIT DR
Respondent by		Sh. M.P.Rastogi, Adv.
Date of Hearing		06.09.2021
Date of Pronouncement		06.09.2021

ORDER

PER KUL BHARAT, JM :

The present appeal filed by Revenue for the assessment year 2007-08 is directed against the order of Ld. CIT(A)-29, New Delhi dated 22.03.2018. The Revenue has raised following grounds of appeal:-

- “1. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in restricting the additions made by the AO on account of capital gain by ignoring the fact that the addition was made on the basis of the order passed by the Hon'ble Settlement Commission.*
2. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in restricting the addition made by the AO on account of capital gain from Rs.3,71,73,360/- to Rs.1,59,99,840/- by ignoring the fact that the Hon'ble Settlement Commission gave a categorical finding that Rs. 13 crore were paid by the buyer to AC Group (holding M/s Anshika Investment Pvt. Ltd., M/s A. R.*

Leasing Pvt. Ltd., M/s Apoorva Extrusion Pvt. Ltd. & M/s Anshika Consultant Pvt. Ltd.).

3. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding that the additional consideration was paid to acquire 4,50,000 equity shares instead of 2,52,000 equity shares.*
4. *That the grounds of appeal are without prejudice to each other.*
5. *That the appellant craves leave to add, amend, alter or forgo any ground(S) of appeal either before or at the time hearing of the appeal.”*

2. However, Ld. Counsel for the assessee pointed out that the present appeal pertaining to Assessment Year 2007-08 deserves to be dismissed as the tax effect involved in the case is below Rs.50 Lacs. Ld. Counsel for the assessee has also filed computation tax effect, the relevant contents thereof are reproduced as under:-

<u>Computation of Tax relief by Ld.CIT(Appeal) vide order dated 22.03.2018</u>	(Rs.)
<i>Addition by AO under the head Long Term Capital Gain on no. of shares 72000*515.88</i>	37143360
<i>Addition sustained by Hon'ble CIT(Appeals) on no. of shares 72000*222.22</i>	<u>15999840</u>
Long Term Capital Gain Additions deleted by Ld.CIT(Appeals)	21143520
<u>Tax Relief by Hon'ble CIT(Appeals)</u>	
<i>Tax @ 20%</i>	4228704
<i>Surcharge 10%</i>	<u>422871</u>
	4651575
<i>Cess 2%</i>	<u>93032</u>
<u>Tax relief including surcharge & Cess</u>	<u>4744607</u>

3. Ld. CIT DR could not controvert the submissions of the Ld. Counsel for the assessee.

4. The CBDT vide Circular No.17/2019 dated 08.08.2019 has revised the monetary limit for filing the appeals before the Tribunal to Rs.50 Lacs. Further, CBDT vide letter dated 20.08.2019 has also clarified that Circular

No.17/2019 would be applicable to all pending appeals. In such circumstances, the present appeal filed by the Revenue in case of low tax effect is not maintainable.

5. 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. In conclusion, by applying the CBDT Circular dated 08.08.2019 and letter dated 20.08.2019 (supra), the captioned appeal of the Revenue is dismissed as withdrawn/not pressed.

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

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 06th September, 2021.

Sd/-

**(G.S.PANNU)
PRESIDENT**

Amit Kumar

Copy forwarded to:

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

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR
ITAT, NEW DELHI