

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'G': NEW DELHI)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 7865/Del/2017
(Assessment Year: 2013-14)**

ACIT, Central Circle-26, New Delhi.	Vs.	Shri Ram Hari Ram, Delhi.
PAN No: AADFS7036D		
APPELLANT		RESPONDENT

Revenue By : Shri Prakash Dubey, Sr. DR
Assessee By : Shri Ashu Goel, CA

Per Anadee Nath Misshra, AM

(A) This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-29, New Delhi, ["Ld. CIT(A)", for short], dated 16.10.2017 for Assessment Year 2013-14. The Grounds taken in this appeal of Revenue is as under:

"1. The Ld. CIT(A) has erred in deleting the addition of Rs. 33,51,42,128/- based on reason that the survey team did not visited the other premise i.e. 1682, Kucha Jat Mai, Chandni Chowk, Delhi and 258, Dariba kalan, Chandni Chowk, Delhi and stock was lying there despite the fact that in statement on oath partner sh. Rajat Gupta has been asked exclusively about the stock being available on any other premise and the assessee denied.

2. The Ld. CIT(A) has erred in deleting the addition of Rs. 28,29,629/- without considering that the amount has been paid to various persons in contravention

to the provisions of section 40A(3) and these expenses are inadmissible as all the payments have been paid in cash. The expenses should have added back as inadmissible expenses as per the provisions of section 40A(3) of the Income tax Act, 1961.

3. That the grounds of appeals are without prejudice to each other.

4. That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal."

(B) At the outset, it was brought to our notice at the time of hearing, by learned Authorized Representative ("Ld. AR" for short) for assessee, that tax effect in this appeal is below Rs. 50,00,000/-. Vide recent CBDT Circular No. 17/2019 dated 08.08.2019 read with earlier CBDT Circular No. 3 of 2018, dated 11.07.2018, minimum threshold limit of tax effect for filing of appeals by Revenue in Income Tax Appellate Tribunal ("ITAT", for short) has been enhanced to Rs. 50,00,000/-. In a subsequent clarification issued by CBDT vide F.No. 279/Misc/M-93/2018-ITJ, dated 20/08/2019, it has been clarified by CBDT that the aforesaid revised monetary limit is also applicable to all pending appeals in ITAT. In view of the foregoing, it was contended by Ld. AR for assessee, that this appeal was not maintainable. Learned Senior Departmental Representative ["Ld. Sr. DR", for short) agreed with this contention of the Ld. AR for assessee, and did not press the appeal. Therefore, this appeal is dismissed being not pressed; and also being not maintainable having regard to aforesaid CBDT Circular No. 17/2019 dated 08.08.2019 read with aforesaid CBDT Circular No. 3 of 2018 in the light of aforesaid clarification dated 20/08/2019.

(C) Before leaving, we clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961 seeking recall of this order and, for restoration of this appeal if it is found that appeal of Revenue is not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.

(D) In the result, this appeal by Revenue is dismissed. Our decision was orally pronounced in the Open Court in the presence of representatives of both sides, after conclusion of hearing on 07.10.2021. Now, this written order is signed today on 08.10.21 .

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

Dated: 08.10.21

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	