

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA

Before Shri Rajpal Yadav, Hon’ble Vice President (KZ) and
Shri Girish Agrawal, Hon’ble Accountant Member

I.T.A No. 1986/Kol/2019 A.Y 2014-15
I.T.A No. 1987/Kol/2019 A.Y 2016-17

I.T.O. Ward 1(2), Asansol Ground Floor, Sahana Apartment Lower Chelidanga Asansol-713304	Vs.	M/s. Bolkunda Pachwai(S) C.S Shop, Vill: Samdi, Dist- Paschim Bardhaman, Pin- 713354. PAN: AAAAB2700K
Appellant		Respondent

Date of Hearing	15-03-2022
Date of Pronouncement	15-03-2022

For the Appellant	Shri Divakar Chakraborty, Addl.CIT, Ld. Sr.DR
For the Respondent	Shri U. Dasgupta, Advocate, Ld.AR

ORDER

Per Bench

These two appeals by the revenue are arising out of the separate orders of Ld. Commissioner of Income Tax (Appeals) [hereinafter referred to as the ‘Ld. CIT(A)’], Asansol in appeal no.129/CIT(A)/Asl/ACIT/Wd-1(2)/Asl/16-17 and in appeal Ack No. 393867441251251218 both dated 10-06-2019 for AYs 2014-15 and 2016-17 against the assessment orders both dated 29-12-2016/14-12-2018, respectively passed by the Assessing Officer, ITO, Ward-1(2), Asansol [hereinafter referred to as the ‘Ld. AO] u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the ‘Act’). Since there are common issue involved in both the appeals, we dispose of both the appeals by this consolidated order for the sake of convenience.

2. During hearing of captioned appeal by revenue, Ld. AR submitted that the appeal is not maintainable in terms of CBDT Circular No. 17/2019 dated 08/08/2019 [F.No.279/Misc.142/2007-TTJ(Pt.)] since the tax effect in the appeal is below Rs.50 Lacs.

In this connection, Shri Divakar Chakraborty, Addl. CIT, Ld. Sr.DR appearing on behalf of revenue has submitted calculation of tax effect for both the A.Ys as under:-

ASST. YEAR 2014-15

DEPARTMENTAL APPEAL
TAX EFFECT CALCULATION
ITA NO. 1986/KOLKATA/2019

Amount disputed in Appeal	1,03,25,641.00
Tax on Disputed Income @ 30%	30,97,692.30
Education cess 3%	92,930.77
Tax Effect with EC	31,90,623.07

ASST. YEAR 2016-17

DEPARTMENTAL APPEAL
TAX EFFECT CALCULATION
ITA NO. 1987/KOLKATA/2019

Amount disputed in Appeal	1,13,27,756.00
Tax on Disputed Income @ 30%	35,00,276.60
Tax Effect with EC	35,00,276.60

3. In view of the foregoing, we find that the appeal(s) is not maintainable in terms of low tax effect circular issued by CBDT vide Circular No. 17/2019 dated 08/08/2019 [F.No.279/Misc. 142/2007-TTJ(Pt.)]. This recent circular further enhances the monetary limit fixed in earlier Circular No.3 of 2018 dated 11/07/2018 issued by CBDT as amended on 20/08/2018. Hence, the appeal(s) stand dismissed with a liberty to revenue to seek recall of the appeal by Misc.Application, if at a later stage, it is found that the matter is covered by any exceptions provided in any of the circular or in case the tax effect in any of the appeals exceeds the prescribed monetary limit. Since the tax effect involved in both the appeals of the revenue are less than Rs.50 lacs, we treat the revenue appeal(s) to fall in the ken of CBDT circular (supra) and so we dismiss it as not maintainable.

4. In view of above, both the appeals of revenue are dismissed.

Order Pronounced in the Open Court on 15-03-2022

Sd/-
(Rajpal Yadav)
Vice President (KZ)

Dated 15-03-2022

Sd/-
(Girish Agrawal)
Accountant Member

****PP(Sr.P.S.)**

Copy of the order forwarded to:

1. Appellant/Revenue: O/o Income Tax Officer, Ward 1(2), Asansol, Ground Floor, Sahana Apartment, Lower Chelidanga, Asansol-713304.
2. Respondent/Assessee: M/s. Bolkundra Pachwai (S) C.S Shop Vill-Samdi, Dist-Paschim Bardhaman-713354.
3. CIT,
4. CIT(A),
5. DR, Kolkata Benches, Kolkata