

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-GUWAHATI 'e-COURT', KOLKATA
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 199/GAU/2018
Assessment Year: 2011-2012**

***Income Tax Officer,..... Appellant
Ward-2. Tezpur,
Aayakar Bhawan, Ex-Police Line,
Tezpur-784001***

-Vs.-

***M/s. T & D Coke Products,.....Respondent
Baroholia, Tezpur, Sonitpur, Assam-784001
[PAN:AAEFT1273G]***

Appearances by:

Shri N.T. Sherpa, JCIT, appeared on behalf of the Revenue

No n e, appeared on behalf of the assessee

Date of concluding the hearing : December 19, 2022

Date of pronouncing the order : December 20, 2022

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The Revenue is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), Guwahati-1, Guwahati dated 29.01.2018 passed for Assessment Year 2011-12.

2. The Revenue has taken four grounds of appeal. In Ground No. 1, Revenue has pleaded that ld. CIT(Appeals) has erred in deleting the addition of Rs.1,15,00,000/-, which was added by the ld. Assessing Officer under section 2(22)(e) of the Income Tax Act, 1961 by treating the unsecured loan as deemed dividend. In rest of the three grounds, Revenue has advanced arguments in support of Ground No. 1.

3. In response to the notice of hearing, no one has come present on behalf of the assessee. However, our Bench Clerk has informed that a request for adjournment was made by someone from the assessee on telephone. We do not entertain such type of request and accordingly proceed to decide the appeal.

4. With the assistance of ld. CIT(DR), we have gone through the grounds raised by the Revenue. As observed above, it is pertinent to note that deletion of addition of Rs.1,15,00,000/- is being challenged by the Revenue. This would call for computation of tax below Rs.50 lakhs. In other words, the deletion of disputed addition at the end of ld. CIT(Appeals) would not have a tax effect more than Rs.50 lakhs. Hence, appeal of the Revenue is not maintainable in terms of CBDT Instruction bearing No. 17 of 2019 issued on 8th August, 2019. It is also pertinent to note that this case does not fall within the

exemption provided at Serial No. 8 of such Instruction. It is further observed that since Id. CIT(DR) has computed the tax effect before us without having knowledge of complete facts. In case on re-appreciation of all the details, it came to the notice of Id. Assessing Officer that tax effect is more than the prescribed limit for challenging the order of Id. CIT(Appeals), then Revenue will be at liberty to file an appropriate Miscellaneous Application under section 254(2) of the Income Tax Act for re-call of this order. It is made clear that such application be filed within the time limit.

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

Order pronounced in the open Court on 20.12.2022.

**Sd/-
(Manish Borad)
Accountant Member**

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

Kolkata, the 20th day of December, 2022

*Copies to :(1) Income Tax Officer,
Ward-2. Tezpur,
Aayakar Bhawan, Ex-Police Line,
Tezpur-784001*

***(2) M/s. T & D Coke Products,
Baroholia, Tezpur, Sonitpur, Assam-784001***

***(3) Commissioner of Income Tax (Appeals),
Guwahati-1, Guwahati,***

- (4) *Commissioner of Income Tax- ,*
- (5) *The Departmental Representative*
- (6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.