

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)**

**ITA No. 7057/MUM/2019  
Assessment Year: 2009-10**

Asst. CIT-6(3)(1),  
5<sup>th</sup> floor, Room No. 506,  
Aayakar Bhavan, M.K. Road,  
Mumbai-400020.

**Appellant**

India Steel Works Ltd.,  
1101, 11<sup>th</sup> floor, India Bull  
Finance Cente, S.B. Marg,  
Elphistone (W),  
Mumbai-400013.  
**PAN No. AAACI 1362 A**

**Vs.**

**Respondent**

Revenue by : Mr. Ujjwal Chavhan, DR  
Assessee by : Mr. P. Daniel, Adv.

Date of Hearing : 13/12/2022  
Date of pronouncement : 30/12/2022

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the Revenue is directed against order dated 27/08/2019 passed by the learned Commissioner of income-tax(Appeals)-12, Mumbai [in short, "the ld. CIT(A)"] for assessment year 2009-10, arising from the order passed by the Assessing Officer u/s. 143(3) r.w.s. 147 of the Act on 05/12/2016. The grounds raised by the revenue are reproduced as under:



1. *"On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition of Rs. 50,00,000/- made us 68 of the Act. 1961 treating the unsecured loan as unexplained cash credits."*
2. *"On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition of Rs. 50,00,000/- made by A.O. on a/c of bogus unsecured loan from two parties by not appreciating that the assessee has not able to prove the identity, genuineness and creditworthiness of the persons from whom loan was received as it failed to produce the parties for cross examination"*
3. *"Though the tax effect in this case is Rs. 15,45,000/, however this appeal has been filed because it is covered by exception mentioned in para10(e) of the CBDT Circular No. 3/2018 dt.11-7-2018 as subsequently clarified by Board letter dtd. 20/08/2018 vide no. 279/misc/142/2007-ITJ/Pt.)"*

2. Firstly, we take the ground no. 3 of the appeal of the revenue as the same relates to the admissibility of appeal due to low tax effect.

3. The ld. Departmental Representative appearing for the revenue submitted that although the said appeal is filed by revenue where the tax effect is Rs. 15,45,000/- only, however, this appeal has been filed considering the exception granted in clause (e) of the CBDT Circular no. 3/2018 dt. 11/07/2018 as subsequently clarified by



the Board *vide* letter dt. 20/08/2018 *vide* F.No.279/misc/142/2007-ITJ(Pt.).

3. In rebuttal, the Id. Counsel of the assessee objected that the appeal filed by the revenue is not admissible in light of the fact that the references made by the Id. Departmental Representative does not assist the revenue in any manner.

4. We have heard the rival contentions of the parties and gone through the relevant CBDT circulars and subsequent clarification of the Board on this issue. The relevant extract of the amended CBDT Circular no. 3/2018 dt. 20/08/2018 is reproduced below:

*“..Kindly refer to the above.*

*2. The monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court have been revised by Board's Circular No.3 of 2018 dated 11.07.2018.*

*3. Para 10 of the said Circular provides that adverse judgments relating to the issues enumerated in the said para should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 thereof or there is no tax effect. Para 10 of the Circular No.3 of 2018 dated 11.07.2018 is hereby amended as under: a 10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the*



*monetary limits specified in para 3 above or there is no tax effect:*

*(a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or*

*(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or*

*(c) Where Revenue Audit objection in the case has been accepted by the Department, or*

*(d) Where addition relates to undisclosed foreign income/ undisclosed foreign assets (including financial assets)/ undisclosed foreign bank account.*

*e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI/ ED/ DR/ SFIO/ Directorate General of GST Intelligence (DGGI).*

*(f) Cases where prosecution has been filed by the Department and is pending in the Court.*

*.....”*

4.1 On perusal of the clause (e) of the above CBDT Circular on which the Id. Departmental Representative of the revenue has placed reliance, it is noted that the same refers to any addition being made based on some information received from external sources in the nature of law enforcement agencies such as CBI/ED/



*DR/ SFIO/ Directorate General of GST Intelligence (DGGI).* Accordingly, what is required to be seen is whether the information based on which the addition is made by the Assessing Officer is received firstly, from external sources and secondly, from any law enforcement agencies or not. In the present case, the Assessing Officer has reopened the case of the assessee and made the addition of unsecured loan u/s. 68 of the Act on the basis of information received from the office of DGIT (Inv.), Mumbai vide letter No. DDIT(Inv)/Unit-2(1)/GS-Inf/2015-16 dtd. 18.03.2016. In light of this information received from the investigation wing of the income tax department, it cannot be said that the Assessing Officer has received any information from external sources and that too from any law enforcement agencies like CBI/ED/SFIO etc.

4.2 In view of the above discussion, we do not agree with the Id. Departmental Representative that the said appeal filed by revenue under low tax effect is covered by exception clause (e) referred to in CBDT Circular no. 3/2018 dt. 20/08/2018. Accordingly, we dismiss this ground no. 3 of the appeal of the Revenue.

4.3 Since the appeal itself is not admissible on the ground of low tax effect based on the CBDT circular (supra), the other grounds of appeal raised by the revenue needs no adjudication and hence, treated to be infructuous and dismissed.



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

**Order pronounced under Rule 34(4) of the ITAT Rules,  
1963 on 30/12/2022.**

**Sd/-  
(SANDEEP SINGH KARHAIL)  
JUDICIAL MEMBER**

**sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 30/12/2022  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
  
(Sr. Private Secretary)  
**ITAT, Mumbai**