

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

**BEFORE
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 6341/Del/2017
Asstt. Year: 2013-14

ACIT, Circle-5(1), New Delhi.	Vs.	Bina Fashions & Food Pvt. Ltd., 53, Community Centre, New Friends Colony, New Delhi – 110 025 PAN AABCB5582A
(Appellant)		(Respondent)

Assessee by:	Smt. Sweety Kothari, CA
Department by :	Shri P. Praveen Sidharth, CIT DR
Date of Hearing	28.03.2023
Date of pronouncement	29.03.2023

ORDER

PER ASTHA CHANDRA, JM

The appeal is filed by the Revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-29, New Delhi dated 30.06.2017 pertaining to Assessment Year 2013-14.

2. At the outset of the hearing, the Ld. AR submitted that the tax effect involved in the appeal is below the prescribed limit of Rs. 50 lakhs as per CBDT Circular No. 17/2019 dated 08.08.2019 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs. 50,00,000/- and urged that the appeal of the Revenue is not maintainable in view of the CBDT Circular No. 17/2019 dated 08.08.2019.

3. The Ld. DR fairly conceded to the submission of the Ld. AR.

4. We have heard both the parties and perused the material on record. Perusal of the aforesaid appeal filed by the Revenue apparently show that the same is having low tax effect as per CBDT Circular No. 17/2019 dated 08.08.2019 and this factual position has been fairly conceded by the Ld. DR. As per the CBDT Circular No. 17/2019 dated 08.08.2019, the monetary limit for filing of appeal by the Department before the Income Tax Appellate Tribunal has been enhanced from Rs. 20 lakhs to Rs. 50 lakhs. The said Circular also makes reference to the earlier Circular No. 3/2018 dated 11.7.2018 and specially states that as a step towards further management of litigation, the Board has decided to enhance the monetary limit for filing of the appeals. This circular is not in supersession of the earlier circular but only amends the monetary limits as well as gives clarification with regard to paragraph 5 of the earlier circular. This *inter alia* means that all the other conditions mentioned in the earlier Circular No. 3 of 2018 dated 11.7.2018 will apply *mutatis mutandis* including that is, it will apply to all the pending appeals. For the sake of ready reference, the latest circular is reproduced hereunder:

"F. No.279/Misc. 142/2007-ITJ(Pt.)

*Government of India
Ministry of Finance
Department of Revenue
Central Board Direct Taxes
Judicial Section
New Delhi. 8th August 2019*

Subject: - Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 - Measures for reducing litigation.-

Reference is invited to the Circular No.3 of 2018 dated 11.07.2018 (the Circular) of Central Board of Direct Taxes (the Board) and its amendment dated 20th August. 2018 vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal. High Courts and SLPs/appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.

"2. As a step towards further management of litigation. it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S. No	Appeals/SLPs in income tax matters	Monetary Limit (Rs.)
1.	Before Appellate Tribunal	50,00,000/-
2.	Before High Court	1,00.00.000/-
3.	Before Supreme Court	2,00,00,000/-

3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:

"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgement involves more than one assessee each assessee shall be dealt with separately.

4. The said modifications shall come into effect from the date of issue of this Circular.

5. The same may be brought to the notice of all concerned.

6. This issues under section 268A of the Income-tax Act, 1961."

5. Further, the CBDT has issued a directive dated 20.08.2019 (F.No.279/19-93/2018-ITJ) in which it has clarified that the enhanced monetary limits stipulated in Circular No. 17/2019 dated 08.08.2019 is applicable to all pending SLPs/ appeals/ cross objections/references.

6. Thus, in view of the aforesaid circular, the appeal of the Revenue is dismissed as not maintainable because tax effect is below Rs. 50 lakhs. However, in case, the present appeal is found to be maintainable at any stage for any technical reasons, the Revenue shall be at liberty to seek recall of this order under relevant provisions of law.

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

Order pronounced in the open court on 29th March, 2023.

sd/-

sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

(ASTHA CHANDRA)
JUDICIAL MEMBER

Dated: 29/03/2023

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
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	