

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "B", MUMBAI  
BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER  
**ITA No. 316/Mum/2023 (A.Y. 2013-14)**

**ACIT, CC-2**

Room No.13, A-wing,  
6<sup>th</sup> Floor, Ashar IT Park  
Wagle Industrial Estate,  
Thane (W)-400 604

..... Appellant

Vs.

**M/s Nirvana Reality Ventures**

Plot No. B-15, 3<sup>rd</sup> Floor,  
Choudhary House,  
Veera Desai Road,  
Off Link Road, Andheri (W)  
Mumbai-400 053

**PAN: AAHFN9101E**

..... Respondent

Revenue by : Shri Chetan M. Kacha, Sr. AR

Respondent by : None

Date of hearing : 10/04/2023

Date of pronouncement : 15/05/2023

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by Revenue is directed against the order of Ld. Commissioner of Income Tax Appeals-11, Pune (for short 'Ld. CIT (A)') dated 21.11.2022 u/s. 250 of

the Income Tax Act, 1961 (for short 'the Act') for A.Y. 2013-14. The Revenue has raised the following grounds of appeal:

*"1. On the facts and circumstances of the case and in law, the Id. CIT (A) has erred in deleting the disallowance of expenditure of Rs. 20, 00,000/- incurred on account of nuisance value for peace' ignoring the fact that the said expenditure is not a lawful expense and therefore not allowable as per Explanation 1 to 37(1) of the Income Tax Act, 1961.*

*2. On the facts and circumstances of the case and in law, the Id.CIT (A) has erred in holding the expenditures of Rs. 20, 00,000/- incurred on account of nuisance value for peace as allowable business expenditure as the payment is supported by agreements, without appreciating the fact that the assessee failed to establish that the said expenditure was incurred wholly and exclusively for business purpose.*

*3. The appellant craves leave to add, amend or alter any grounds or add a new ground which may be necessary."*

2. Brief facts of the case are that assessee is a partnership firm engage in the business of land development and filed its original return on 23-09-2013 declaring total income at Rs 1,61,96,250/-. Case of the assessee was assessed under scrutiny assessment u/s. 143(3) at the income of Rs 1, 63, 56, 880/-. Subsequently it was noticed that assessee in its profit and loss account claimed an amount of Rs 20 lakhs under the head "nuisance value for peace". Based on this expense claimed by the assessee the case of the assessee was reopened vide issuing the notice u/s 148 on 30-03-2018 after obtaining prior approval of the JCIT (central) as required u/s 151(2) of the act. In response to the notice u/s 148 the assessee has filed its return of income on 12-04-2018 declaring total income at Rs 1,63,56,880/-. Thereafter due notice u/s 143(2) was issued on 31-05-2018. Assessee asked to furnish the reasons for reopening. the reason for reopening was provided to the assessee on 24-09-

2018 as the assessee has claimed expenditure of Rs 20,00,000/- as “nuisance value for peace”, which is prohibited and on offence by law as per AO and the same can’t be allowed u/s. 37(1).

3. As per assessee his case was assessed in scrutiny u/s 143(3) and all the payment along with ledgers and agreements were already furnished and examined by the AO hence, this reopening on this reason will tantamount to change of opinion which is not permissible. During the assessment proceedings assessee and AO relied upon certain judicial precedents and ultimately AO was not agreed with the contentions of the assessee and added back the same to the income of the assessee by disallowing the claim. Assessee being aggrieved with this order of AO preferred an appeal before the Ld.CIT (A). It is observed that the same contentions and submissions assessee furnished before the Ld.CIT (A). Ld. CIT (A) being fully convinced with the submissions of the assessee and allowed the appeal of the assessee on merits of the case. Now revenue is aggrieved party with the order of Ld.CIT (A) and preferred this appeal before us.

4. We have gone through the order of AO, order of Ld. CIT (A) along with the board circular no 17/2019 dated 08.08.2019. The relevant extracts of the circular mentioned (supra) is reproduced herein below.

***CIRCULAR NO. 17/2019 [F.NO. 279/MISC.142/2007-ITJ(PT.)]  
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 IN  
CIRCULAR NO. 3/2018, DATED 11-7-2018 - MEASURES FOR REDUCING  
LITIGATION***

**CIRCULAR NO. 17/2019 [F.NO. 279/MISC.142/2007-ITJ (PT.)], DATED 8-8-2019**

Reference is invited to the [Circular No. 3 of 2018, dated 11-7-2018](#) (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:

Sl. 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. In view of the above circular this appeal of revenue is not maintainable before us and the approval of Ld. PCIT to file this appeal before us through concerned AO is also without authority of law. In these circumstances without going into the merits of the case, the appeal of the revenue is dismissed as the same is in defiance of the board circular mentioned (supra).

**6. In the result, appeal of the revenue is dismissed.**

Order pronounced in the open court on 15<sup>th</sup> day of May, 2023.

Sd/-

(KULDIP SINGH)  
JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 15/05/2023

*Sr. PS Dhananjay*

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

BY ORDER,

//True Copy//

(Dy. / Asstt. Registrar)  
ITAT, Mumbai