

IN THE INCOME TAX APPELLATE TRIBUNAL
“GUWAHATI BENCH, GUWAHATI
VIRTUAL HEARING AT KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.45/GTY/2022
Assessment Year: 2019-20

ITO, Ward-1, Shillong..... Appellant

vs.

Hotchand Kalachand Loungani..... Respondent
Radhasoami Cottage,
East Khasi Hills, Oakland,
Shillong, Meghalaya-793001,
[PAN: AASPL2122L]

Appearances by:

Shri PS Thuingaleng, ACIT-DR, appeared on behalf of the appellant.
None appeared on behalf of the Respondent.

Date of concluding the hearing : June 07, 2023

Date of pronouncing the order : June 07, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the revenue against the order dated 10.10.2022 of the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. No one has put in appearance on behalf of the assessee despite notice. Therefore, we proceed to decide the appeal after hearing the ld. DR.

3. It is to be noted that the tax effect involved is less than the prescribed monetary limit by the CBDT for filing appeal to this Tribunal vide Circular No.17 of 2019.

4. The Id. DR though admitted that the tax effect is less than the prescribed limit, however, has submitted that the issue involved in this appeal is hit by the exception clause no.10 of the Circular No.17 of 2019 of CBDT which for the sake of convenience is reproduced as under:

“10. Adverse judgment 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”

5. However, a perusal of the impugned order of the CIT(A) would reveal that neither the assessee in his appeal before the CIT(A) has ever challenged the constitutional validity of any provisions of the Act or Rule nor the CIT(A) has held any circular, notification or instruction of the Board to be illegal or ultra vires, therefore, this case does not fall within the exception clause. Since the tax effect involved is less than the prescribed limit, hence, the present appeal is not maintainable u/s 268A of the Act and the same is accordingly dismissed.

6. In the result, the appeal of the revenue stands dismissed.

Kolkata, the 7th June, 2023.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]

लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 07.06.2023.

RS

Copy of the order forwarded to:

1. ITO, Ward-1, Shillong
2. Hotchand Kalachand Loungani
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches