

IN THE INCOME TAX APPELLATE TRIBUNAL, KOLKATA BENCH 'C', KOLKATA

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No.61/Kol/2021
Assessment Year: 2012-13**

ITO, Ward-4(1), Kolkata	vs	Madhusudan Barter Private Limited 14, N.S. Road, 1 st Floor, Kolkata-700001. PAN: AAGCM 5938 E
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Soumitra Choudhury, Advocate
Revenue by : Shri Sunil Kumar Agarwala, CIT, DR

Date of Hearing : 02.08.2023

Date of Pronouncement : 03.08.2023

ORDER

PER SONJOY SARMA, JM:

The present appeal filed by the Revenue is directed against the order dated 22.09.2020 of the Commissioner of Income Tax (Appeals)-7, Kolkata [hereinafter referred to as the 'CIT(A)].

2 It is seen, at the outset, that the tax effect on the disputed additions before us is less than Rs.50 lacs as the prescribed in the CBDT's latest Circular No.17/2019 dated 08.08.2019. It will be pertinent to reproduce the relevant portion of the said Circular as follows:-

"2 . As a step toward 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
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2.1 We find that intention behind the Circular No.17/2019 dated 08.08.2019 needs to be understood in the following perspective:-

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-à-vis where composite order for more than one assessment year 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, 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 assessments 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/judgment involves more than one assessee, each assessee shall be dealt with separately.”*

2.2. On perusal of the Circular No.17/2019 dated 08.08.2019 and the materials available on record, it reveals that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. Hon’ble apex court in Commissioner of Customs vs. Indian Oil Corporation Ltd reported in 267 ITR 272 (SC) has settled the law that CBDT’s circulars are very much binding on revenue authorities.

3. The Id. DR has also fairly stated that tax effect involved in appeal is less than the prescribed limit.

4. In view of above stated position, the appeal of the Revenue is dismissed because of low tax effect than the prescribed limits as per CBDT Circular No.17/2019 (supra).

Order pronounced in the open court on 03.08.2023

Sd/-

**(RAJESH KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata: 03.08.2023
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: ITO, WARD-4(1), Kolkata
2. The Respondent: Madhusudan Barter Private Limited
3. The CIT,
4. The CIT (A)
5. The DR .

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata