

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, 'DB': DEHRADUN**

(Through Video Conferencing)

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.24/DDN/2020
[Assessment Year: 2016-17]**

Income Tax Officer (Exemption), Aaykar Bhawan, 13-A, Subhash Road, Dehradun-248001	Vs	M/s Avani Society, Vill & PO. Tripura Devi, Pithoragarh, Uttarakhand-262501
PAN-AAATA9921E		
Assessee		Revenue

Assessee by	Sh. Upendra Singh Negi, Adv.
Revenue by	Sh. A.S. Rana, Sr. DR

Date of Hearing	22.09.2023
Date of Pronouncement	22.09.2023

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the Revenue is against the order of the Ld. CIT(A), Kathgodam, dated 26.02.2020 and pertains to Assessment Year 2016-17.

2. The grounds of appeal raised by the assessee reads as under:-

“1. That the Ld. CIT(A), Haldwani has erred in law and on the facts and circumstances of the case in directing the Assessing Officer to allow the claim of the deemed application under section 11(2) of the Income Tax Act, 1961 to the assessee.

2. That the Ld. CIT(A), Haldwani has erred in law and on the facts and circumstances of the case in ignoring the section 13(9) of the Income Tax Act, 1961 while allowing the deemed application under section 11(2) of the Income Tax Act, 1961 to the assessee.

3. That the order of Ld. CIT(A), Haldwani be set aside and that of the Assessing Officer be restored.”

3. At the outset, it is noted that the tax effect in this case is less than that fixed by the CBDT vide Circular No.17/2019 dated 08.08.2019 for filing appeals before the Tribunal. The CBDT has revised the monetary limit for filing the appeals before the Tribunal to Rs.50 Lacs. Further, CBDT vide letter dated 20.08.2019 has also clarified that Circular No.17/2019 would be applicable to all pending appeals. In such circumstances, the present appeal filed by the Revenue is not maintainable.

4. The Ld. DR tried to submit that this falls under exception in as much as constitutional validity of section 13(9) was under challenge.

5. However, on careful perusal of records and the orders of the authorities below, we find nowhere there is verdict against constitutional validity of section 13(9). Hence, we hold that the appeal is not maintainable in as much as tax effect in this case is below the monetary limit prescribed by the CBDT vide Circular No.17/2019 dated 08.08.2019 for filing the appeal before the Tribunal.

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

Order pronounced in the open court on 22nd September, 2023

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Delhi; 22.09.2023

Shekhar,

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi