

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA
BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1167/Kol/2023
Assessment Year: 2014-15**

DCIT, Circle-2, Asansol	Vs.	HLG Memorial Hospital Pvt. Ltd. Sen-Raleigh Road, Asansol, West Bengal-713305. (PAN: AABCH3927P)
(Appellant)		(Respondent)

Present for:

Appellant by : Shri C. Roy, AR

Respondent by : Shri Gautam Patra, Addl. CIT (DR)

Date of Hearing : 19.02.2024

Date of Pronouncement : 21.02.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the revenue is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order No. ITBA/NFAC/S/250/2023-24/1056392116(1) dated 21.09.2023 passed against the assessment order by Ld. ACIT, Circle-2, Asansol u/s.143(3) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 30.12.2016 for AY 2014-15.

2. At the outset, it is seen that the tax effect on the disputed additions before us in this appeals is less than Rs.50 lacs as 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

3.1 We find that intention behind the Circular No17/2019 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.”*

3.2. 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.

4. We find from the records before us that the tax involved in the disputed issue in this appeal is below Rs.50 lakhs amounting to Rs.19,76,338/-and therefore, in view of the CBDT Circular No. 17/2019 dated 08.08.2019 no appeal should be filed by the Revenue before the Tribunal which has tax effect of Rs. 50.00 lakhs or less and this circular is also applicable retrospectively to all pending appeals. Therefore, this appeal filed by the Revenue is dismissed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order is pronounced in the open court on 21st February, 2024

Sd/-
(Rajpal Yadav)
Vice President

Sd/-
(Girish Agrawal)
Accountant Member

Dated:21st February, 2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A), NFAC, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata