

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI C. N.PRASAD, JUDICIAL MEMBER
AND
SHRI A. K. MISHRA, ACCOUNTANT MEMBER**

ITA No.175/Del/2024, A.Y. 2020-21

DCIT, Circle 4(2),Delhi	Vs.	Curadev Pharma Pvt.Ltd. H-3/63, First Floor, Vikaspuri, New Delhi-110018 PAN : AADCC8368D
(Appellant)		(Respondent)

Appellantby	Sh. Sanjay Tripathi, Sr. DR
Respondent by	Sh. Mukesh Jain, CA and Sh. Samyak Jain, CA

Date of Hearing	08/05/2024
Date of Pronouncement	08/05/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal of the Assessment Year 2020-21, preferred by the appellant/Revenue, challenges an order dated 06.12.2023, of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi [In short, the 'CIT(A)'].

2. The limited issue that we are tasked to decide here is, whether the CIT(A) has erred on facts in law in deleting the disallowance of Employees Stock Option Plan (ESOP) expenses of Rs.23,14,800/-.

3. The relevant facts, in brief, are that the assessee, a Private limited Company, is engaged in the business of Bio-Technology Research and Development. It filed its return of income for the relevant assessment year on 12.02.2021 declaring income of Rs.12,15,99,660/-. The case was picked up for scrutiny and consequential assessment was completed at income of Rs.12,62,90,460/- under section 143(3) r.w.s. 144B of the Income Tax Act, 1961 (In short, 'the Act'). The Assessing officer (In short, the 'AO') disallowed research & development expenses of Rs. 23,76,000/- claimed under section 35(2AB) of the Act and ESOP expenses of Rs.23,14,800/-. In first appeal, the disallowance of ESOP expenses of Rs. 23,14,800/- was deleted by the CIT(A), which was challenged, in this appeal, by the Revenue.

4. We have heard both the parties.

5. As per Form 36, it is evident that the tax effect in this case is only Rs. 7,63,884/-. The CBDT Circular No.17/2019 dated 08.08.2019 prescribes threshold limit of tax effect of Rs.50 Lakhs for filing appeals, subject to certain exceptions, before the Tribunal. On specific query,

the Ld. DR submitted that the tax effect in this case is below the prescribed limit; however, the interest of Revenue be protected to the extent if the matter falls in the exceptions for contesting the low tax effect appeals.

6. We have perused the material on the record. We are of the considered view that this appeal is non-maintainable due to low tax effect. Hence, the present appeal filed by the Revenue is dismissed subject to liberty to the Revenue to approach the Tribunal for re-institution of appeal, if the requisite material is brought on record to show that this appeal is covered by the exceptions prescribed in para-10 of the Circular No. 3/2018 dated 11.07.2018.

7. In the result, the appeal of the Revenue stands dismissed as above.

Order pronounced in open Court on 8th May, 2024.

Sd/-

**(C.N.PRASAD)
JUDICIAL MEMBER**

Sd/-

**(A. K.MISHRA)
ACCOUNTANT MEMBER**

Dated: 08/05/2024

Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI