

**THE INCOME TAX APPELLATE TRIBUNAL,  
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 1390/KOL/2023  
Assessment Year: 2017-2018**

***Assistant Commissioner of Income Tax,.....Appellant  
Circle-7(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square,  
Kolkata-700069***

**-Vs.-**

***Ashiana Housing Limited,.....Respondent  
5F, Everest House,  
46/C, Chowringhee Road,  
Kolkata-700071  
[PAN: AADCA9093P]***

**Appearances by:**

*Shri Manoj Kumar Pati, Addl. CIT, appeared on behalf  
of the Revenue*

*Shri Rajat Agarwal, A.R., appeared on behalf of the  
assessee*

**Date of concluding the hearing : August 08, 2024**

**Date of pronouncing the order : August 08, 2024**

**O R D E R**

**Per Rajpal Yadav, Vice-President (KZ):-**

The Revenue is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre (NFAC), Delhi dated 30<sup>th</sup> October, 2023 passed for Assessment Year 2017-18.

2. The ld. Counsel for the assessee, at the very outset, submitted that tax effect by virtue of relief given by the ld. CIT(Appeals) is below Rs.50 lakhs and, therefore, this appeal is not maintainable. The ld. Counsel filed calculation of the tax effect. He further submitted that in Form No. 36, Revenue has worked out total tax effect at Rs.1,01,54,902/-, which is an incorrect figure. This represents the total addition and not the tax effect on that. This factum has been taken into consideration in his computation of tax effect.

3. With the assistance of ld. Representatives, we have gone through the record carefully. Basically, two additions were disputed before the ld. CIT(Appeals), namely –

(a) addition under section 43CA of Rs.33,44,900/-; and

(b) disallowance of future development expenses amounting to Rs.68,10,002/-.

The total of these two would come up to Rs.1,01,54,902/-. The tax effect after calculating the surcharge, etc. would be Rs.35,14,402/- of this addition. The ld. CIT(Appeals) has deleted the addition of the above amount. The Revenue has erroneously mentioned the tax effect equivalent to the gross amount of addition instead of 30% plus surcharge on that gross amount of addition. The issues on which these additions have been deleted

do not fall within the ambit of exceptions provided in the CBDT Circular bearing No. 17 of 2019 issued on 8<sup>th</sup> August, 2019.

4. In view of the above, we are of the view that the present appeal is not maintainable in accordance with the CBDT Circular. Hence this appeal is dismissed.

**5. In the result, the appeal of the Revenue is dismissed.**

Order pronounced in the open Court on 08/08/2024.

Sd/-

Sd/-

**(Rajesh Kumar)**  
**Accountant Member**

**(Rajpal Yadav)**  
**Vice-President (KZ)**

**Kolkata, the 8<sup>th</sup> day of August, 2024**

- Copies to :* (1) Assistant Commissioner of Income Tax,  
Circle-7(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square, Kolkata-700069
- (2) Ashiana Housing Limited,  
5F, Everest House,  
46/C, Chowringhee Road, Kolkata-700071
- (3) Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC),  
Delhi;
- (4) CIT - , Kolkata;
- (5) The Departmental Representative;
- (6) Guard File  
TRUE COPY

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**