

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

MA No.370/DEL/2022
(Arising from ITA No.7263/DEL/2019)
Assessment Year 2016-17

ACIT(E) Circle-1(1) New Delhi	Vs.	Gyan Mandir Society New Delhi
TAN/PAN: AAATG0311N		
(Applicant-Assessee)		(Respondent)

Applicant by:	Shri Sanjay Jain, Chartered Accountant Shri Saurabh Jain, Advocate		
Respondent by:	Shri Anshul, Sr.DR		
Date of hearing:	31	05	2024
Date of pronouncement:	27	08	2024

ORDER

PER PRADIP KUMAR KEDIA - A.M.:

The captioned Misc. Application has been filed by the Revenue under Section 254(2) of the Act in the appellate order passed by the Tribunal under Section 254(1) of the Act in ITA No.7263/Del/2019 order dated 29.06.2022 for A.Y. 2016-17 in question.

2. The Id. DR for the Revenue pointed out that the ITAT has wrongly dismissed the appeal of the Revenue on the ground that the tax effect in the present case does not exceed Rs.50 lakhs as specified in CBDT Circular No.17/2019, order dated 8th August, 2019.

3. In the matter, the Id. DR for the Revenue pointed out that notional tax effect of the disputed amount stands at Rs.53,69,065/- which exceeds the

monetary limit. Even the appeal memo in Form No.36 filed by the Revenue reflects the tax effect at Rs.51,67,185/-. Thus, in either situation, the tax effect exceeds the monetary limit prescribed in the CBDT Circular. This being so, the appeal of the Revenue requires to be adjudicated on merit and cannot be dismissed *in limine* by taking shelter of the CBDT Circular. The Id. DR thus urged for revival of the original appeal for adjudication on merits.

4. The Id. counsel for the assessee, on the other hand, submitted that similar issue arose in the case of the assessee in the earlier assessment years, i.e., A.Ys. 2009-10 and 2010-11. In the identical set of facts, the appeal of the Revenue was found unsustainable by the Tribunal even on merits. The Id. counsel thus submitted that no interference with the order of the ITAT passed under 254(1) is called for in the circumstances.

5. On perusal of the appellate order passed by the Tribunal under Section 254(1) of the Act, it is straightaway noticed that the issue in dispute raised in the appeal was not decided on merits. The appeal of the Revenue was dismissed solely on the ground that the prescribed monetary limit for preferring appeal before the Tribunal is less than Rs. 50 lakh and thus the appeal is not maintainable in view of CBDT Circular No.17 of 2019 dated 8th August, 2019. However, it is the case of the Revenue that the tax effect on the disputed amount exceeds the threshold limit of Rs.50 lakh and therefore, the benefit of CBDT circular is not available to the assessee and the order passed by the Tribunal is based on misconception of facts. We observe that the tax effect has been declared to be exceeding Rs.50 lakhs in the Appeal Memo filed by the Revenue.

6. The impugned order of the Tribunal rejecting the appeal of Revenue as inadmissible on the grounds of low tax effect thus suffers from mistake

apparent from record.

7. Hence in the fitness of things, the matter is recalled for fresh adjudication in accordance with law.

8. In the result, the Misc. Application of the Revenue is allowed.

Order pronounced in the open Court on 27 August, 2024.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER

DATED: August, 2024
Prabhat