

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI  
BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT, JUDICIAL MEMBER

**ITA No. 1058/Mum/2024 (A.Y.2015-16)**

**ACIT 4 (1)(1),**

R. No. 678, Aayakar Bhavan,  
M. K. Road, Churchgate  
Mumbai-400 020

..... Appellant

Vs.

**CVI Contact Lens India Pvt. Ltd.**

Office No. 3, 2<sup>nd</sup> floor,  
Vishnu Apartment, L.T. Road,  
Borivali West

**PAN: AAFCC3175N**

..... Respondent

Appellant by	:	Shri H. M. Bhatt, Ld. DR
Respondent by	:	Shri Srihari Iyer, Ld. AR
Date of hearing	:	10/06/2024
Date of pronouncement	:	14/08/2024

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by the revenue is directed against the order of Ld. CIT (A), NFAC-Delhi dated 29.01.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2015-16. The revenue has raised the following grounds of appeal:-

*1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) is justified in deleting the addition of Rs. 10, 25,244/- made by the AO to the net profit of the assessee company on account of Special Additional Duty refund ignoring the fact that the assessee has not explained the reasons for not crediting the said amount to the profit and loss account and offering the same for taxation directly in the computation of income.*

*2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) is justified in deleting the addition of Rs. 10,25,244/- made by the AO to net profit of the assessee company on account of Special Additional Duty refund ignoring the fact that the Auditor in Tax Audit Report has clearly mentioned that during the year under consideration the assessee has received refund of Rs 10,25,244/ which is not credited to the profit and loss account by the assessee company.*

2. The brief facts of the case are that the Assessee filed its return of income on 30.11.2015 declaring total income at Rs. 79,31,104/-. The assessee company is engaged in the business of trading of contact lenses. The case of the assessee was selected for limited scrutiny through CASS. Case of the assessee was assessed at return income. Thereafter, the assessee filed an application u/s. 154 of the Act as the credit of self assessment tax paid amounting to Rs. 9, 94,012/- was not given to the assessee and this resulted in additional demand of Rs. 13, 62,129/- (including interest u/s. 234A and 234B of the Act).

3. The AO thereafter passed rectification order u/s. 154 r.w.s. 143(3) of the Act suo moto vide dated 18.03.2021 computing total income at Rs. 1,58,39,730/- and determined tax demand of Rs. 24,83,405/-. The assessee being aggrieved preferred an appeal before the Ld. CIT (A) against this order passed u/s 154 r.w.s 143(3) of the Act. The Ld. CIT (A) allowed the appeal of the assessee. Thereafter, the revenue being aggrieved preferred the present appeal before us against the

order of Ld. CIT (A), astonishingly, not against the whole order but only on specific issue involving addition of Rs. 10,25,244/-.

4. We have gone through the order of AO passed u/s. 143(3) of the Act, order passed u/s. 154 r.w.s. 143(3) of the Act and order of the Ld. CIT (A) passed u/s. 250 of the Act and submissions of both the sides alongwith grounds taken by the revenue before us. It is observed that the tax effect involved in this appeal filed by the revenue is Rs. 2, 05,128/- only. On these facts before moving ahead, it's our Ernst duty to consider the Board's circulars and notifications relevant to decide the issue. In this context, we have taken cognizance of Board's as discussed and reproduced herein below:

***CIRCULAR NO. 17/2019 [F.NO. 279/MISC.142/2007-ITJ (PT.)]***

***FURTHER ENHANCEMENT OF MONETARY LIMITS FOR FILING OF APPEALS BY THE DEPARTMENT BEFORE INCOME TAX APPELLATE TRIBUNAL, HIGH COURTS AND SLPs/APPEALS BEFORE SUPREME COURT - AMENDMENT IN CIRCULAR NO. 3/2018, DATED 11-7-2018 - MEASURES FOR REDUCING LITIGATION***

***CIRCULAR NO. 17/2019 [F.NO. 279/MISC.142/2007-ITJ (PT.)], DATED 8-8-2019***

*Reference is invited to the Circular No. 3 of 2018, dated 11-7-2018 (the Circular) of Central Board of Direct Taxes (the Board) and its amendment dated 20th August, 2018 vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal. High Courts and SLPs/ appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.*

**2.** *As a step towards 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:*

<i>Sl. No.</i>	<i>Appeals/SLPs in Income-tax matters</i>	<i>Monetary Limit (Rs.)</i>
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1.	<i>Before Appellate Tribunal</i>	<i>50, 00,000</i>
2.	<i>Before High Court</i>	<i>1,00.00.000</i>
3.	<i>Before Supreme Court</i>	<i>2,00,00,000</i>

**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-a-vis where composite order for more than one assessment years 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 in 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 assessment 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/ judgement involves more than one assessee. Each assessee shall be dealt with separately."*

**4.** The said modifications shall come into effect from the date of issue of this Circular.

**5.** The same may be brought to the notice of all concerned.

**6.** This issues under section 268A of the Income-tax Act, 1961.

5. In view of the above circular this appeal of revenue is not maintainable before us and the approval of Ld. PCIT to file this appeal before us through concerned AO is also without authority of law. In these circumstances without going into the merits of the case, the appeal of the revenue is dismissed as the same is in defiance of the board circular mentioned (supra).

**6. In the result, appeal of the assessee is allowed.**

Order pronounced in the open court on 14<sup>th</sup> day of August, 2024.

Sd/-  
(ANIKESH BANERJEE)  
JUDICIAL MEMBER

Sd/-  
(GAGAN GOYAL)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 14/08/2024  
Sr. PS (Dhananjay)

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,  
(Asstt. Registrar)  
**ITAT, Mumbai**