

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

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

I.T.A. No. 3614/DEL/2023 (A.Y 2013-14)

Joint Commissioner of Income Tax, Special Range, CGO complex,-II Hapur Chungi, Kamla Nehru Nagar, Ghaziabad (APPELLANT)	Vs.	APK Identification Village and Post-Adhyatmik Nagar, Ghaziabad, Uttar Pradesh PAN No. AAJFA1810F (RESPONDENT)
---	-----	---

Assessee by :	Sh. Somil Agarwal, Adv and Sh. Deepesh Garg, Adv
Department by:	Sh. R. K. Dol, Sr. DR

Date of Hearing	16.10.2024
Date of Pronouncement	.10.2024

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the Revenue for the Assessment Year 2013-14 against the order of the CIT(A)/National Faceless Appeal Centre ('NFAC' for short), Delhi dated 29/09/2023.

2. The Ld. Counsel for the Assessee submitted that the tax effect in the present Appeal is Rs. 6,79,841/- and relying on the

circular No.05 of 2024 of the CBDT dated 15/03/2024, sought for dismissal of the Appeal filed by the Assessee.

3. Per contra, the Ld. DR submitted that based on the audit objection raised by the RAP Officer an order u/s 154 of the Income Tax Act, 1961 ('Act' for short) has been passed by disallowing deduction of Rs. 22,00,132/-, which has been set aside by the CIT(A). Therefore, submitted that the Appeal has been filed by the Department on 12/12/2023 and as on the said date the Appeal was maintainable as the same was covered under the 'exceptions' contemplated under earlier CBDT Circular No. 03 of 2018 dated 11/07/2018 and amendment made thereto vide Circular dated 20/08/2018 as the matter is involved in the case of Revenue audit objection which has been accepted by the Department. Thus submitted that the Appeal of the Revenue is maintainable.

4. We have heard the parties perused the material. The present Appeal has been filed by the Revenue on 13/12/2023 aggrieved by the order of the CIT(A) dated 29/09/2023. The tax effect involved in the Appeal is admittedly Rs. 6,79,841/-. The Appeal has been preferred by the Department by relying on the CBDT Circular No. 03 of 2018 dated 11/07/2018 and

amendment made thereto vide Circular dated 20/08/2018 as the matter is involved of Revenue audit objection which has been accepted by the Department.

5. The CBDT has issued a Circular No.05 of 2024 dated 15/03/2024, wherein the monetary limit given in the said circular to file Appeal before the Tribunal was Rs. 50,000/- which was subject to certain 'exceptions' and made the said exceptions applicable without regarding to the tax effect and the monetary limits. For the ready reference the said 'exceptions' are reproduced as under: -

“3.1 Monetary limits given in paragraph 4 with regard to filing appeal/SLP shall be applicable to all cases including those relating to TDS/TCS under the Act with the following exceptions where the decision to appeal/file SLP shall be taken on merits, without regard to the tax effect and the monetary limits:

a. Where any provision of the Act or the Rules or notification issued thereunder has been held to be constitutionally invalid, or

b. Where any order, notification, instruction or circular of the Board or the Government has been held to be illegal or ultra vires the Act or otherwise constitutionally invalid, or

c. Where the assessment is based on information in respect of any offence alleged to have been committed under any other law received from any of the law enforcement or intelligence agencies such as CBI, ED, DRI, SFIO, NIA, NCB, DGGI, state law enforcement agencies such as State Police, State Vigilance Bureau, State Anti-Corruption Bureau, State Excise Department, State Sales/Commercial Taxes or GST Department, or

d. Where the case is one in which prosecution has been filed by the Department in the relevant case and the trial is pending in any Court or conviction order has been passed and the same has not been compounded, or

e. Where strictures/adverse comments have been passed and/or cost has been levied against the Department of Revenue, CBDT or their officers, or

f. Where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under sections 10(23C), 12A/ 12AA/ 12AB of the

Act, order passed u/s 263 of the Act etc. The reference to cases involving sections referred here, where it is not possible to quantify tax effect or tax effect is not involved, is for the purpose of illustration only.

g. Where addition relates to undisclosed foreign income/undisclosed foreign assets (including financial assets)/undisclosed foreign bank account, or

h. Cases involving organized tax evasion including cases of bogus capital gain/loss through penny stocks and cases of accommodation entries, or

i. Where mandated by a Court's directions, or

j. Writ matters, or

k. Matters related to wealth tax, fringe benefit tax, equalization levy and any matter other than the Income Tax Act, or

l. In respect of litigation arising out of disputes related to TDS/TCS matters in both domestic and International taxation charges:-

i. Where dispute relates to the determination of the nature of transaction such that the liability to deduct TDS/TCS thereon or otherwise is under question, or

ii. Appeals of International taxation charges where the dispute relates to the applicability of the provisions of a Double Taxation Avoidance Agreement or otherwise

m. Any other case or class of cases where in the opinion of the Board it is necessary to contest in the interest of justice or revenue and specified so by a circular issued by Board in this regard.

5. As per the above CBDTCircular No.05 of 2024 dated 15/03/2024, the monetary limit fixed by the CBDT for filing the Appeal is also made applicable even to the matter is involved of Revenue audit objection which has been accepted by the Department, as the said exception has been omitted in the Circular No.05 of 2024 dated 15/03/2024. It is well settled law that the CBDT Circular fixing the monetary limit for filing the Appeals/SLP in the income tax matter are applicable even to the pending matters, in view of the above

said Circular dated 15/03/2014, we find the present Appeal filed by the Revenue is not maintainable.

6. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in open Court on 17th October, 2024

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated: 17/10/2024

*R.N, Sr. PS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI