

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND

SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.274/Nag./2023

(Assessment Year : 2016-17)

Dy. Commissioner of Income Tax
Central Circle-2(2), Nagpur

..... Appellant

v/s

Atul Ramsharan Gupta
245/E, Rajlaxmi Marg
Chitnavis Layout, Civil Lines
Nagpur 440 001 PAN – ABQPG8908G

..... Respondent

C.O. no3/Nag./2024

(Arising out of ITA no.274/Nag./2023)

(Assessment Year : 2016-17)

Atul Ramsharan Gupta
245/E, Rajlaxmi Marg
Chitnavis Layout, Civil Lines
Nagpur 440 001 PAN – ABQPG8908G

..... Cross Objector
(Original Respondent)

v/s

Dy. Commissioner of Income Tax
Central Circle-2(2), Nagpur

..... Respondent
(Original Appellant)

Assessee by : Ms. Shikha Loya
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 22/10/2024

Date of Order –

ORDER

PER BENCH

The present appeal has been filed by the Revenue challenging the impugned order dated 19/06/2023, passed by the learned Commissioner of

Income Tax (Appeals)-3, Nagpur, [“learned CIT(A)”], for the assessment year 2016-17.

2. In its appeal, the Revenue has raised following grounds:-

“1. On the facts and in the circumstances of the case, Ld. CIT(A) erred in deleting the addition of Rs.3,03,68,800/- made by the AO on account of sum received including bonus on maturity of 'Keyman Insurance Policy' as profits in lieu of salary.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in comparing the assessee case which is related to the scrutiny assessment with the case of other group concerns specifically the case of Shri Vipul Gupta related to the ITSC, which requires the income of the assessee which has not been disclosed before Assessing Officer, deleting addition of Rs.3,03,68,800/-.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding the action of AO in invoking the provisions of section 17(3) (ii) & taxing the gross surrender value is improper without appreciating the reasoning given by AO, on addition of policy amount received, by way of the Finance (No.2) Act, 1996 and CBDT Circular No. 762 dated 18.02.1998.

4. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding action of the AO as ultravires of section 153A and unjustified, finding that the AO has neither unearthed any incriminating documents during search nor any such incriminating documents have been relied upon by him for making the impugned addition u/s 153A Without appreciating the fact that the addition of Rs.3,03,68,800/- was made on account of search action which was sequenced by issue of notice u/s 153A, filing of ITR in response to u/s 153A and considering the Rs.3.03,68,800/- for taxation. DS

5. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in considering action of AO as ultravires of section 153A and unjustified, indirectly allowing the additional ground of the assessee without giving opportunity to the AO.

6. On the facts and in the circumstances of the case, Ld. CIT(A) erred in deleting the addition of Rs.32,440/- made by the AO on account of deduction which had not claimed in original return of income filed u/s 139(1) of the Act.

7. Any other ground that may be raised during the course of appellate proceedings.”

3. At the outset, the learned Authorised Representative appearing for the assessee submitted that the tax effect on the amount disputed by the Revenue is below the revised monetary limit of ₹ 60 lakh applicable to appeals

before the Tribunal, as per CBDT Circular no.09 of 2024, dated 17/09/2024. Thus, the learned A.R. submitted that the Revenue's appeals being covered under the aforesaid Circular are not maintainable.

4. The learned Departmental Representative agreed that the tax effect on the amount disputed by the Revenue is below the monetary limit of ₹ 60 lakh for both the years under consideration.

5. Having heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below, we are of the view that the tax effect on the amount disputed by the Revenue in the present appeal is below the revised monetary limit of ₹ 60 lakh as per CBDT Circular cited supra. It also stands clarified by the CBDT that the revised monetary limit of ₹ 60 lakh, as per the aforesaid CBDT Circulars, would also apply to all pending appeals. In view of the aforesaid, Revenue's appeals deserve to be dismissed. However, the Revenue is given liberty to seek recall of this order if, at a later point of time, it is found that the appeal fall under any of the exceptions provided in the CBDT Circular referred to above.

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

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For Assessment year 2016-17

7. The issues arising out of the grounds of appeal raised by the assessee in its Cross Objections are inter-connected with the issues raised in the grounds of appeal raised by the Revenue. Since we have dismissed the appeal

filed by the Revenue in limine on the ground that the tax effect in the said appeal filed by the Revenue is below the taxable limit of ₹ 60 lakh in view of the recent CBDT Circular no. no.09 of 2024, dated 17/09/2024, therefore, the Cross Objection filed by the assessee becomes infructuous and is liable to be dismissed. However, needless to mention here that we have granted liberty to the Revenue to seek recall of this order if, at a later point of time, it is found that the appeal fall under any of the exceptions provided in the CBDT Circular referred to above.

8. In the result, appeal filed by the Revenue and Cross Objection filed by the assessee both are dismissed.

Order pronounced in the open Court on

K.M. ROY
ACCOUNTANT MEMBER

V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED:

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

By Order

Sr. Private Secretary
ITAT, Nagpur