

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 1139/Kol/2023
Assessment Year: 2011-12**

Deputy Commissioner of Income Tax,

Ayakar Bhawan, 6th Floor, P-7,

Chowringhee Square,

Kolkata - 700107

..... **Appellant**

vs.

**Ratnabali Capital Markets Private Limited,
Kolkata,**

A7 and 8, 4th Floor, 234/3A, A.J.C. Bose Road,

Near Minto Park, Kolkata - 700020

[PAN: AABCR5937P]

..... **Respondent**

Appearances by:

Assessee represented by : Arvind Agarwal, AR

Department represented by : Akhil Kumar, Sr. DR

Date of concluding the hearing : November 11, 2024

Date of pronouncing the order : November 18, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the Revenue pertaining to the Assessment Year (in short 'AY') 2011-12 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of the Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated

06.06.2022 arising out of Assessment Order dated 21.11.2018 passed under Section 143(3) r.w.s. 147 of the Act.

2. 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)'s order is in conformity with the provisions of Section 115JB(1) read with Explanation-1 to the Section."
2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding the Assessing Officer as wrong in denying deduction of Rs 1,29,07,786/- in computing the Book Profit
3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in reversing the order of the Assessing Officer enhancing the Book Profit by Rs 1,29,07,786/- as per Explanation-1 to Section 115.JB(1) of the IT Act, 1961"
4. Whether on the facts and in the circumstances of the case and in law, the conclusion drawn by the Ld. CIT(A) can be drawn by any reasonable person or authority on the basis of material and facts of the case"
5. That the appellate craves leave to add any new ground or alter or modify any of the grounds and to represent its case before the appellate authority".

3. At the outset, it is seen that the tax effect on the disputed additions before us is less than Rs.50 lacs as the prescribed in the CBDT's latest Circular No.17/2019 dated 08.08.2019. It will be pertinent to reproduce the relevant portion of the said Circular as follows:-

"2 . As a step toward 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:

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

4. The Ld. AR also brought to our notice that the assessee company Ratnabali Capital Markets Private Limited as originally name in the

proceedings which is no longer in existence. This is due to de-merger and merger agreement that took effect as per scheme of arrangement sanctioned by NCLT Kolkata Bench on 19.09.2017 by which Ratnabali Capital Markets Private Limited was de-merged and transferred to Ratnabali Securities Pvt. Ltd., therefore, stated that considering this reconstruction process, any notice orders or communication related to this order should be communicated to Ratnabali Investments Pvt. Ltd., successor entity. Notice should be sent to the update address registered email address of Ratnabali Investments Pvt. Ltd. to ensure proper delivery and compliance with the corporate structure in place. However, in the instant case, appeal is decided on the issue of tax effect only. Therefore, we find it unnecessary to pass any comments on this corporate restructure issues within this particular appeal. Therefore, this direction regarding notice communication is for administrative purposes only.

5. We find that intention behind the Circular No.17/2019 dated 08.08.2019 needs to be understood in the following perspective:-

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-à-vis where composite order for more than one assessment year 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, 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 assessments 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/judgment involves more than one assessee, each assessee shall be dealt with separately."

6. On perusal of the Circular No.17/2019 dated 08.08.2019 and the materials available on record, it reveals that this circular makes it very clear

that the revised monetary limits shall apply retrospectively to pending appeals as well. Hon'ble apex court in Commissioner of Customs vs. Indian Oil Corporation Ltd reported in 267 ITR 272 (SC) has settled the law that CBDT's circulars are very much binding on revenue authorities.

7. The Id. DR has also fairly stated that tax effect involved in appeals are less than the prescribed limit.

8. In view of above stated position, the appeal of the Revenue is dismissed because of low tax effect than the prescribed limits as per CBDT Circular No.17/2019 (supra).

9. In the result, the appeal of the Revenue is dismissed.

Kolkata, the 18th November, 2024.

Sd/-
[Sanjay Awasthi]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 18.11.2024.

AK, PS

Copy of the order forwarded to:

1. Ratnabali Capital Markets Private Limited, Kolkata
2. Deputy Commissioner of Income Tax, Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches