

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT  
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No. 1108/KOL/2024  
Assessment Year: 2016-17**

DCIT, Central Circle, 4(3) Kolkata, Aaykar Bhavan Poorva, 110 Shantipally, West Bengal, Kolkata-700107	Vs	Jivendra Mishra, Kolkata 202/A, Block-B, Bangur Avenue, West Bengal, Kolkata-700055
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: AEXPM8503K</b>		

**Present for:**

Appellant by : Ms. Madhumita Das, ACIT  
Respondent by : None

Date of Hearing : 28.08.2024  
Date of Pronouncement : 19.11.2024

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue is against the order of the Ld. Commissioner of Income Tax (hereinafter referred to as "the Ld. CIT (A)") passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2016-17 dated 09.03.2024, which has been passed against the assessment order u/s 143(3) of the Act, dated 29.12.2017.

2. At the outset, there is a delay of 06 days in filing the appeal. That after a detailed discussion, the bench considered the delay and accordingly, the delay for 06 days is condoned. Accordingly, the delay for 06 days is condoned and appeal is taken for adjudication.



3. With the assistance of Id. DR, we have gone through the grounds raised by the Revenue. It is pertinent to note that the tax effect by virtue of relief given by the first appellate authority is less than Rs.60,00,000/-. As per CBDT Instruction bearing No. 9 of 2024 issued on 17<sup>th</sup> September, 2024, CBDT has directed its subordinate authorities not to challenge the order of Id. CIT(Appeals) before Tribunal if tax effect by virtue of relief given by the Id. CIT(Appeals) is less than Rs.60,00,000/-. Such order could only be challenged if it comes within exceptions provided in the Instruction. However, it was not demonstrated that this case falls in any of the exceptions and therefore, this appeal is not maintainable.

4. On due consideration of the above facts and circumstances, we dismiss this appeal of the Revenue for want of tax effect. However, in case on re-verification of the facts at the end of the Assessing Officer, it emerges that the tax effect is more than the limit for filing the appeal or this case falls in any of the exceptions provided in the instruction, then the Revenue will be at liberty to file a Miscellaneous Application for revival of this appeal. Such application should be filed within the time limit provided in the Act.

5. In the result, all the appeal of the Revenue is dismissed.

**Order pronounced in the Court on 19<sup>th</sup> November, 2024 at Kolkata.**

Sd/-

(RAJPAL YADAV)  
VICE PRESIDENT

Sd/-

(RAKESH MISHRA)  
ACCOUNTANT MEMBER

Kolkata, Dated 19.11.2024

\*SS, Sr.Ps



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

**TRUE COPY**

आदेशानुसार/ BY ORDER,

**Sr. PS/ Assistant Registrar**  
आयकर अपीलीय अधिकरण  
**ITAT, Kolkata**