

IN THE INCOME TAX APPELLATE TRIBUNAL

"E" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 2525/MUM/2024

(Assessment Year :2012-13)

ITO, 17(3)(1),

Room No.110, 1st Floor,
Kautilya Bhavan,
Mumbai – 400051,
Maharashtra

..... Appellant

v/s

European Trust,

4th Floor, Janambhoomi Chamber,
29, Walchand Hirachand Marg,
Ballard Estate,
Mumbai, Maharashtra - 400038
PAN: AAATE3654L

..... Respondent

CO No.116/MUM/2024

(Arising out of ITA No.2525/MUM/2024)

(Assessment Year :2012-13)

European Trust,

4th Floor, Janambhoomi Chamber,
29, Walchand Hirachand Marg,
Ballard Estate,
Mumbai, Maharashtra - 400038
PAN: AAATE3654L

..... Cross Objector
(Original Respondent)

vs.

ITO, 17(3)(1),

Room No.110, 1st Floor,
Kautilya Bhavan,
Mumbai – 400051,
Maharashtra

..... Respondent
(Original Appellant)

Assessee by : Shri K. Shivram

Ms. Neelam Jadhav

Revenue by : Shri Biswanath Das, CIT-DR

Date of Hearing – 23/10/2024

Date of Order - 29/11/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal by the Revenue and the Cross Objection by the assessee has been filed against the impugned order dated 27/03/2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2012-13.

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

"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in admitting the additional evidence submitted by the assessee during the appellate proceedings in contravention of the provisions of Rule 46A(2) of the Income Tax Rules, 1962?"

"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deciding the appeal of the assessee based on the additional evidence submitted by the assessee during the appellate proceedings, without giving an opportunity to the AO as per the provisions of Rule 46A(3) of the Income Tax Rules, 1962?"

3. "Appellant prays the Hon'ble ITAT to set aside the order of the Ld. CIT(A) and to restore the matter to the file of Assessing Officer for fresh adjudication after examining the new facts emerged and the additional evidences submitted by the assessee during the appellate proceedings."

3. While in its Cross objection, the assessee has raised the following grounds:

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"CROSS OBJECTION NO. 1. REOPENING OF ASSESSMENT IS BAD IN LAW.

1. On the facts and in the circumstances of the case and in law, the learned CIT(Appeals) has erred in upholding the reopening of assessment w/s 147 of the Act.

2. The cross objector prays that the reopening of assessment held ab-initio void or otherwise bad in law.

***CROSS OBJECTION NO. 2: NO ADDITIONAL EVIDENCE HAS BEEN FILED.
UNDER RULE 46A***

3. The revenue, in its grounds of appeal, has alleged that the additional evidence was submitted and admitted during the course of appellate proceedings before Hon'ble CIT(A) in contravention of Rule 46A(2) and 46A(3), which are contrary to the facts on record hence the grounds of the Revenue may be dismissed

4. Without prejudice to above, the Cross Objector state that no additional evidence has been submitted before the Hon'ble CIT(A). Only clarifications have been submitted with respect to assessment records at the specific direction of Hon'ble CIT(A) and thus, the ground of the revenue may be dismissed."

4. At the outset, we find that in column 10 of Form No. 36 filed by the Revenue, the tax effect relating to the grounds of appeal raised by the Revenue is mentioned as Rs.58,00,000, which is below the monetary limit of Rs.60 lakh, applicable to appeals before the Tribunal, as per CBDT Circular no.9 of 2024, dated 17/09/2024. Therefore, in view of the aforesaid, Revenue's appeal deserves to be dismissed. However, the Revenue is granted the liberty to seek recall of this order if, at a later point in time, it is found that the appeal falls under any of the exceptions provided in the Circular referred to above.

5. Since we have dismissed the Revenue's appeal, therefore, the Cross Objection filed by the assessee becomes infructuous and therefore is dismissed. However, if subsequently the Revenue's appeal is recalled on the basis that the Revenue's appeal falls under any of the exceptions provided in the Circular referred to above, in such a case we direct that the assessee's Cross Objection be also restored in the interest of justice.

6. In the result, the appeal by the Revenue and Cross Objection by the assessee are dismissed.

Order pronounced in the open Court on 29/11/2024

Sd/-
NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 29/11/2024
Prabhat

Copy of the order forwarded to:

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

By Order

Assistant Registrar
ITAT, Mumbai