

IN THE INCOME TAX APPELLATE TRIBUNAL “C ” BENCH: KOLKATA

[Before Shri Mahavir Singh, JM & Shri M. Balaganesh, AM]

I.T.A No.1138/Kol/2013
Assessment Year: 2009-10

Assistant Commissioner of Income-tax,
Circle-2, Burdwan
(Appellant)

Vs. Nayek Paper Industries Pvt. Ltd.
(PAN:AANCM1683Q)
(Respondent)

Date of hearing: 29.02.2016
Date of pronouncement: 29.02.2016

For the Appellant: Smt. Ranu Biswas, JCIT
For the Respondent: Shri H. S. Bhattacharjee, AR

ORDER

Per Shri Mahavir Singh, JM:

This appeal by revenue is arising out of order of CIT(A)-Durgapur vide Appeal No. 124/CIT(A)/ASL/ACIT/Cir-2/BWN/2011-12 dated 25.02.2013. Assessment was framed by ACIT, circle-2, Burdwan u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2009-10 vide his order dated 08.11.2011.

2. At the outset, it is seen that the quantum involved in this case is Rs.10,16,012/-and tax effect on the disputed addition before us is Rs.3,45,444/-, which is less than Rs. 10 lacs.

3. After perusing the materials available on record, we find that the additions disputed before us is below the tax effect limit prescribed by CBDT vide Circular No. 21 / 2015 dated 10.12.2015 for preferring appeals before tribunal by the revenue. On perusal of the Circular No. 21 / 2015 dated 10.12.2015 and the materials available on record, Ld. DR could not point out whether this case falls under any of the exception as provided in the circular despite specific opportunity was given, does not fall under any of the exceptions contemplated in the said Circular, as this is covered. We also find that the Circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals also. We find that the Circular is binding on the tax authorities. This position has been confirmed by the *Hon’ble Apex Court in the case of Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)*. Hence, we hold that the appeal of the revenue deserves to be dismissed in terms of low tax effect vide Circular No.21 / 2015 dated 10.12.2015. Accordingly, this being a low tax effect case, we dismiss this appeal of revenue in limine, as unadmitted, without going into the merits of the case.

4. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Mahavir Singh)
Judicial Member

Dated : 29th February, 2016

Copy of the order forwarded to:

1. Appellant – ACIT, Circle-2, Burdwan.
2. Respondent – M/s. Nayek Paper Industries Pvt. Ltd., Vill & PO Memari, Dist. Burdwan, Pin-713146.
3. CIT(A), Durgapur
4. CIT,
5. DR, Kolkata Benches, Kolkata
/True Copy,

By order,

Asstt. Registrar.