

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'B', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. SANJAY GARG, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 5132/Del/2018  
(Assessment Year : 2014-15)

ITO Ward – 7(4), New Delhi  PAN No. AACCD 4882 A <b>(APPELLANT)</b>	Vs.	Dove Buildmart Pvt. Ltd. C-11, Ground Floor, Sarda Puri, Raja Garden New Delhi-110 015  <b>(RESPONDENT)</b>
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Assessee by	--None--
Revenue by	Shri Jagdish Singh, Sr. D.R.

Date of hearing:	04.10.2021
Date of Pronouncement:	04.10.2021

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the Revenue is directed against the order dated 09.05.2018 of the Commissioner of Income Tax (Appeals) – 3, Delhi relating to Assessment Year 2014-15.

2. Revenue has raised the following grounds of appeals:
  1. *“Ld. Commissioner of Income-tax (Appeals) erred in law and on the facts of the case in deleting the addition of Rs. 1,45,94,141/- made by the AO on account of sale*

*consideration as per provision of section 43CA(1) of the Income-tax Act, 1961 by holding that the assessee has complied with the provision of subsection (3) and (4) of Sec 43CA, but subsection (3) and (4) of Section 43CA are merely enabling provisions and as per the settled principle of interpretation of the tax statute, a deeming provision has to be interpreted strictly and therefore, the basic condition of subsection (1) of section 43CA has to be given full effect which requires taxability of the difference at the time of “transfer” of asset and not prior to that.”*

2. *“The appellant craves leave to add, amend or forego and ground(s) of appeal at any time before or during the hearing of this appeal.”*

3. On the date of hearing none appeared on behalf of the assessee nor any adjournment application was filed. The case file reveals that in the past also there has been no appearance on behalf of the assessee. In such a situation, we proceed to dispose of the appeal *ex-parte* qua the assessee after hearing the Learned DR.

4. At the time of hearing, we inquired from the Ld. DR as to whether the tax effect of the grounds raised by Revenue is less than the monetary limit prescribed by CBDT for filing the appeals to which he fairly admitted that the tax effect is less than the monetary limit prescribed by CBDT for filing the appeals and therefore the appeal be decided accordingly.

5. We have heard the Ld. DR and perused the material on record. On perusing the grounds of appeal raised by the Revenue,

we find that Revenue is aggrieved by the order of Learned CIT(A) in respect of the relief given by him. We find that CBDT vide Circular No. 3/2018 dated 11.07.2018 had increased the limit for filing appeal before ITAT at Rs. 20 lakhs. The limit for filing appeals before ITAT and other authorities were enhanced by CBDT vide Circular No.17 of 2019 dated 08.08.2019. As per the aforesaid CBDT Circular dated 08.08.2019, no Department appeals are to be filed against relief given by the Learned CIT(A) before the Income Tax Appellate Tribunal unless the tax effect, excluding interest, exceeds Rs.50 lakhs. We find that in the present case, the tax effect involved is less than Rs.50 lakhs. In the absence of any material placed on record by the Revenue to demonstrate that the issue in the present appeal is covered by exceptions provided in para 10 of the aforesaid CBDT Circular of 11.07.2018, we are of the view that the monetary limit prescribed by the instructions of the CDBT Circular dated 08.08.2019 would be applicable to the present appeal of the Department. We therefore hold the present appeal of Revenue to be not maintainable on account of low tax effect. However, in case there is any error in the computation of the tax effect involved or if for any reason, the aforesaid CBDT Circular is not applicable, it would be open to the Revenue to seek revival of the appeal. **Thus the appeal of the Revenue is dismissed.**

**6. In the result, the appeal of Revenue is dismissed.**

**Order pronounced in the open court on 04.10.2021, immediately after conclusion of the hearing of the matter in virtual mode.**

**Sd/-**

**(SANJAY GARG)  
JUDICIAL MEMBER**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 04.10.2021  
PY\*

**Copy forwarded to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	04.10.2021
Date on which the typed draft is placed before the dictating Member	04.10.2021
Date on which the approved draft comes to the Sr.PS/PS	04.10.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	04.10.2021
Date on which the fair order comes back to the Sr. PS/ PS	04.10.2021
Date on which the final order is uploaded on the website of ITAT	04.10.2021
Date on which the file goes to the Bench Clerk	04.10.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	