

IN THE INCOME TAX APPELLATE TRIBUNAL "A"

(Virtual Court Hearing), BENCH KOLKATA

BEFORE SHRI P. M. JAGTAP, V.P & SHRI S. S. GODARA, JM

आयकर अपीलसं./I.T.A No.2147/Kol/2019

(निर्धारण वर्ष / Assessment Year: 2008-09)

DCIT, Circle-6(1), Kolkata	Vs.	M/s. ICA Eduskill Pvt. Ltd. 4 th Floor, 27, Netaji Subhas Road, Kol-1.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCI0017R		
(Appellant)	..	(Respondent)

Appellant by : Shri Dhruvajoti Roy, JCIT

Respondent by : Shri Subash Agarwal, Advocate

सुनवाईकीतारीख/ Date of Hearing : 05/10/2020

घोषणाकीतारीख/Date of Pronouncement : 14/10/2020

आदेश / O R D E R

Per Shri S. S. Godara:

This Revenue's appeal for assessment year 2008-09 arises against the Commissioner of Income-tax (Appeals)-7, Kolkata's order dated 01.05.2019 passed in case No.979/CIT(A)-7/Circle-6(1)/Kol/15-16 involving proceedings u/s 147/143(3) of the Income Tax Act, 1961; (in short 'the Act').

Heard both the parties. Case file pursued.

2. It emerges at the outset that this Revenue's appeal suffers from 59 days' delay in filing. It is pleaded in the condonation petition/affidavit dated 17.09.19 that the relevant file/papers were not available with the concerned authorities. The assessee is equally fair in not contesting all these solemn averments. Hon'ble apex court in [Collector, Land Acquisition vs. Mst. Katji & Ors](#) [1987] 167 ITR 0471 (SC) held long back that the cause of substantial justice prevails over all technical aspects. We thus treat this 59 days' delay in filing as neither intentional nor deliberate but on account of communication gap between different authorities at departmental level. The main appeal is taken up for adjudication on merits therefore.

3. We next notice that the total amount of the disputed addition(s) before us is Rs.31,72,758/- i.e. involving tax effect less than Rs. 50 lacs as per CBDT's latest Circular No.17/2019 dated 08.08.2019. It is 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:

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

4. We find that intention behind the Circular No17/2019 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.”*

5. On perusal of the Circular No. 17/2019 dated 08.08.2019 and the materials available on record, we do not see this case falling under any of the exceptions contemplated in the said circular *per se*. We also find 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. We thus hold that this Revenue's appeal raising sole issue of Rs.31,72,758/- deserves to be dismissed in terms of low tax effect. We make it clear that it shall very much open for the Revenue to seek necessary rectification in case it is found that any of the appeal involve operations of exception clauses in the tax effect circular as per law.

6. This Revenue's appeal is dismissed for involving lower than the prescribed minimum tax effect.

Order is pronounced in the open court on 14.10.2020.

Sd/-
(P.M. Jagtap)
VICE-PRESIDENT

Sd/-
(S. S. Godara)
JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 14/10/2020

RS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant- DCIT, Circle-6(1), Kolkata
2. The Respondent- M/s. ICA Eduskill Pvt. Ltd.
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.