

F. No. 279/Misc/M-93/2018-ITJ
Government of India
Ministry of Finance
Department of Revenue
Central Board Direct Taxes
Judicial Section

New Delhi, 11th December 2018

To

All Pr. Chief Commissioners of Income tax

Madam/Sir,

Sub:- Clarification w.r.t para 10 of Circular 3 of 2018 -Reg.

Instructions were issued vide CBDT Circular No. 3 of 2018 dated 11.07.2018, to the effect that SLPs/appeals should not be filed in cases where the tax effect does not exceed the monetary limits specified under para 3 of the said Circular. It was also clarified therein that appeal should not merely be filed because the tax effect in the case exceeds the monetary limits prescribed in the said Circular.

2. In para 10 of the said Circular read with Board's letter issued vide F. No. 279/Misc.142/2007-ITJ(Pt) dated 20.08.2018, it has been unambiguously and expressly provided that adverse judgments relating to the following issues should be **contested on merits** notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where addition relates to undisclosed foreign income/undisclosed foreign assets (including financial assets)/ undisclosed foreign bank account.
- (e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI/ ED/ DRI/ SFIO/ Directorate General of GST Intelligence (DGGI).
- (f) Cases where prosecution has been filed by the Department and is pending in the Court."

3. The direction that appeals be '**contested on merits**' in itself implies that there should not be any mechanical filing of appeals in these cases. It is therefore reiterated that the import and intent of para 10 of Circular 3 of 2018 is that even on issues mentioned in the said para, appeals against the adverse judgements should only be filed on merits.

4. The above may be brought to the notice of all concerned.

This issues with the approval of Member (A&J)


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