

I-T dept broadens avenues for tax officers to file appeals

CAVEAT. CBDT says merits of the case, not monetary limit, should be the guiding factor

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The Income Tax Department can now file appeal in cases of TDS (tax deducted at source) or tax collected at source (TCS) without any monetary limit. A similar provision will apply in cases of bogus capital gain or loss involving penny stocks.

These are part of the new mechanism for filing of appeals by the Central Board of Direct Taxes (CBDT) before the Income Tax Appellate Tribunal, the high courts and the Supreme Court.

However, the department has said there will be no change in the monetary limits for filing appeal. Accordingly, if the tax effect exceeds ₹50 lakh, the appeal will be filed before the appellate tribunal. In case the amount crosses ₹1 crore, then the department can move the High Court, and in case of ₹2



The new system will be applicable for new appeals

crore or more, the appeal can be filed before the Supreme Court.

The CBDT is the apex policy making body of the Income Tax Department. The new system will be applicable for new appeals. The circular has clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits. "Filing of appeal in such cases is to be decided on merits of the case. The officers should keep in mind the overall objective of reducing unnecessary litiga-

tion and providing certainty to taxpayers on the income-tax assessments while taking a decision regarding filing an appeal," the board said.

TAX EFFECT

According to the CBDT, 'Tax Effect' means the difference between the tax on total income assessed and the tax that would have been chargeable had such total been reduced by the amount of amount of the income in respect of the issues against which appeals is intended to be filed. This will be tax including cess and surcharge but exclude interest.

The circular has also given a list of exceptions wherein monetary limits would not be applicable. For example, litigations arising out of disputes related to TDS/TCS matter in both domestic and international tax charges is part of exception list. It would also include dispute related to the determination of the nature of

transactions or disputes relates to the applicability of a Double Taxation Avoidance Agreement. Another notable entry is "cases involving organised tax evasion including cases of bogus capital gain/loss through penny stocks and cases of accommodation entries."

Sandeep Jhunjhunwala, Partner, with Nangia Andersen LLP, said a residuary item is introduced providing a window to the Board to exempt cases from the monetary condition in the interest of justice and revenue.

"Recognising that non-filing of appeals by virtue of this circular could be used as a point of argument by taxpayers to the effect that it indicates acceptance of orders in favour of the assessee by the Revenue, the circular lays emphasis on judicial records holding significant importance as evidence to be produced before courts," he said.

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I-T dept expands scope for officers filing appeals, includes TDS disputes

Currently, tax authorities can file appeals before ITAT, High Court and Supreme Court, if the disputed tax demand exceeds Rs 50 lakh, Rs 1 crore and Rs 2 cr respectively -- a threshold fixed in 2019

Nangia Andersen LLP Partner Sandeep Jhunjunwala said the circular magnifies the exception list -- cases where appeals can be pursued by the Revenue (Department) despite not meeting the prescribed monetary thresholds. One such addition to the exception list that may merit a mention is litigations related to TDS/ TCS matters where liability to deduct TDS/ TCS having regard to the nature of the transaction is in dispute or where the applicability of tax treaties is disputed.

Also, a residuary item is introduced providing a window to the Board to exempt cases from the monetary condition in the interest of justice and revenue, Jhunjunwala said.



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CBDT allows I-T dept to file appeals irrespective of monetary threshold, includes TDS disputes

As per the present rules, tax authorities are allowed to file appeals before the ITAT, High Court and Supreme Court, if the disputed tax demand exceeds Rs 50 lakh, Rs 1 crore and Rs 2 crore.

Sandeep Jhunjhunwala, Nangia Andersen LLP Partner, said the circular magnifies the exception list -- cases where appeals can be pursued by the Revenue (Department) despite not meeting the prescribed monetary thresholds. One such addition to the exception list that may merit a mention is litigations related to TDS/ TCS matters where liability to deduct TDS/ TCS having regard to the nature of the transaction is in dispute or where the applicability of tax treaties is disputed.

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I-T dept expands scope for filing appeals by tax officers, includes TDS disputes

The Central Board of Direct Taxes (CBDT) in a circular dated March 15 said that the said monetary limits will not be applicable for filing appeals in cases where prosecution has been filed by the department in the relevant case.

Nangia Andersen LLP Partner Sandeep Jhunjunwala said the circular magnifies the exception list — cases where appeals can be pursued by the Revenue (Department) despite not meeting the prescribed monetary thresholds. One such addition to the exception list that may merit a mention is litigations related to TDS/ TCS matters where liability to deduct TDS/ TCS having regard to the nature of the transaction is in dispute or where the applicability of tax treaties is disputed.

Also, a residuary item is introduced providing a window to the Board to exempt cases from the monetary condition in the interest of justice and revenue, Jhunjunwala said.