HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Income Tax Appeal No. 46/2024

Pr. Commissioner Of Income Tax-1, Jodhpur.

----Appellant

Versus

Bulaki Ram Bherji Mistry, Nayashahar Bikaner .

----Respondent

For Appellant(s)	:	Mr. Kamal Kishore Bissa
For Respondent(s)	:	

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

27/03/2026

1. Having seen the file, it appears that counted from the date of receipt of copy of the impugned order, the instant appeal was filed within time and therefore the objection of the Registry that the same is time barred by 5 days is overruled. The appeal is taken up for hearing on board today itself.

2. The present appeal has been filed against the judgment dated 06.06.2024 passed by the Income Tax Appellate Tribunal whereby the appeal filed by the respondent challenging the order dated 13.02.2023 passed by CIT (A) was allowed.

3. At the very outset, our attention has been drawn to an order dated 07.10.2025 passed by Co-ordinate Bench of this Court in D.B. Income Tax Appeal No. 19/2025.

4. For ready reference, the relevant of Division Bench order, *ibid*, is reproduced herein below:-

> *"2. This Court has perused CBDT Circular No.09/2024 dated 17.09.2024, which prescribes monetary limits for filing departmental*

appeals before the Appellate Tribunal, High Courts, and the Hon'ble Supreme Court.
3. By the said circular, the monetary limits for filing appeals by the department have been enhanced and consequently, the monetary limit (tax effect) for filing an appeal before the Hon'ble High Court is Rs.2,00,00,000/- i.e. no appeal is to be filed before the High Court where the tax effect does not exceed Rs.2,00,00,000/-. However, exceptions to the said monetary limit have been prescribed in paragraph 3.1 of the CBDT circular No.05/2024, dated 15.03.2024.
4. In the present case, the tax effect involved is Rs.1,11,136/-, which is much below the prescribed monetary threshold. However, contention of counsel for the appellant is that the issue under consideration pertains to organized tax evasion and involves bogus capital gain/loss entries, and thus, falls under the exception (h) of paragraph 3.1 of the Circular No.05/2024, dated 15.03.2024.
5. Having considered the submissions and the record, this Court is of the opinion that although the case technically falls within the exception recognized under the Circular, yet, in view of the insignificant tax effect and the overall policy of reducing unnecessary litigation, it would be appropriate to close the present appeal while keeping the substantial question of law open for consideration in a more appropriate case."

5. We are in respectful agreement with the view taken therein and in view thereof. Accordingly, we also propose to proceed on the same premise and dismiss the appeal by observing that since the net tax effect involved which is impugned herein is merely a sum of Rs. 54,168/- and thus in view of Circular No. 05/2024 dated 15.03.2024 issued by Central Board of Direct Tax (CBDT), the appellant is also under a legal obligation not to press such claims on merits.

6. However, the question of law raised in the appeal is kept open to be adjudicated in the appropriate proceedings in future.

7. Any pending application also stands disposed of.

(SUNIL BENIWAL),J **(ARUN MONGA),J**

14-Devanshi/-