IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.413 of 2018 (O&M)

Principal Commissioner of Income Tax-1, Chandigarh

.....Appellant

Versus

M/s Unipro Techno Infrastructure Private Ltd.

.....Respondent

1.	The date when the judgment is reserved	29.09.2026
2.	The date when the judgment is pronounced	06.10.2026
3.	The date when the judgment is uploaded on the website	07.10.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE SUNISH BINDLISH

Argued by: Ms. Urvashi Dhugga, Senior Standing Counsel and
Mr. Vaibhav Gupta, Junior Standing Counsel for
the appellant-revenue.

Ms. Radhika Suri, Senior Advocate with
Ms. Parnika Singla, Advocate for the respondent.

DEEPAK SIBAL, J.

1. The instant appeal, preferred by the revenue, under Section 260A of the Income-tax Act, 1961 (for short - the Act), is directed against order dated 01.12.2017, passed by the Income Tax Appellate Tribunal, Chandigarh (for short - the ITAT).

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2. The respondent is a private limited company. It is engaged in the execution of civil works. For the assessment year 2012-13, the respondent-company filed its income tax return on 28.09.2012. Through its return, the respondent-company sought deduction under Section 80-IA of the Act for an amount of Rs.4,56,56,527/-. Through assessment order dated 20.12.2014, the sought deduction was allowed by the respondent company's Assessing Officer (for short – "AO"). The issue with regard to grant of deduction under Section 80-IA of the Act was questioned in proceedings under Section 263 of the Act by the Principal Commissioner of Income Tax, Chandigarh (for short "the PCIT"). After considering the matter, through order dated 29.03.2017, passed under Section 263 of the Act, the PCIT held that grant of deduction under Section 80-IA to the respondent company was erroneous and prejudicial to the interest of the revenue. Resultantly, the assessment order dated 20.12.2014 was set aside and the matter was remitted to the respondent company's AO with a direction to re-assess the respondent's income for the relevant assessment year in terms of the order of the PCIT. The respondent company challenged the order of the PCIT dated 29.3.2017 before the ITAT. Such appeal was accepted vide order of the ITAT dated 01.12.2017 resulting in the setting aside of the order of the PCIT. Against the order of the ITAT dated 01.12.2017, the present appeal has been preferred by the revenue.

3. In the meanwhile, in terms of the order of the PCIT dated 29.3.2017, the respondent company's AO passed an assessment order dated 19.12.2017, adding to the respondent company's income an amount of Rs.4,56,56,527/- on which amount the respondent company had sought deduction under Section 80-IA of the Act. Resultantly, a demand of tax @

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Rs.1,41,07,867/- was made from the respondent-company. Assessment order dated 19.12.2017 was challenged by the respondent-company through filing of the appeal before the Commissioner of Income Tax (Appeals), Chandigarh [for short - the CIT(A)], which appeal was accepted vide order dated 06.09.2023. Consequently, the assessment order dated 19.12.2017 was set aside. The order of CIT(A) dated 06.09.2023 was then taken up in appeal by the revenue before the ITAT, which appeal was dismissed on 30.08.2025. Though, the order of the ITAT prejudiced the revenue, but the same was not challenged any further on account of low tax effect.

4. Learned senior counsel appearing for the respondent-company submitted that in paragraph No.7 of the present appeal, the tax effect involved in this appeal has specifically been quantified by the revenue @ Rs.1,41,07,867/-; this is further evident from the assessment order passed in compliance with the order under Section 263 wherein, after disallowing the claimed deduction under Section 80-IA, the tax has been demanded from the respondent is Rs.1,41,07,867/-; the addition to the respondent's income made through the assessment order dated 19.12.2017 was ordered to be deleted through the CIT(A)'s order dated 06.09.2023 which decision has also been upheld by the ITAT putting a final lid on the entire issue; consequently, the issue(s) sought to be canvassed through the present appeal cannot be permitted to be reopened because the right of the revenue to pursue an appeal before this Court stands circumscribed by the circulars issued by the Central Board of Direct Taxes (for short, "CBDT") in exercise of the power under Section 268A of the Act, including Circular Nos. 5 and 9 of 2024, whereby the monetary threshold for pursuing an appeal before this Court has been prescribed at Rs.2 crores and the

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present appeal, being one involving a tax effect below the prescribed threshold, thus falls within the ambit of the aforesaid circulars and cannot be allowed to be pursued by the revenue.

5. Per contra, learned counsel for the revenue submitted that in the matters where PCIT, in exercise of jurisdiction under Section 263 of the Act, has remanded the matter to the AO for fresh assessment, the AO is not bound by only the observations made in the order passed under Section 263 of the Act but is competent to raise demand on any issue; the substantial questions of law raised before this Court through the instant appeal are only required to be answered and in this case the issue with regard to withdrawal of appeals on account of low tax effect having not been raised does not require an answer; in matters where assessment is required to be done in pursuance to the orders passed under Section 263 of the Act the tax effect is yet to be quantified and therefore, in such matters the Court should refrain from applying circulars of the CBDT laying down monetary limits for withdrawal of appeals; as per Clause 3.1(f) of circular No.5/2024 dated 15.03.2024 the revenue is not required to withdraw the present appeal because in the case in hand, the order of the ITAT has been challenged through which the order of the PCIT, passed under Section 263 of the Act has been set aside and that the respondent-assessee, in terms of Clause 7 of the circular, cannot rely on an assessment order passed in its own case.

Reliance was also placed by learned counsel for the revenue on the decision of this Court dated 23.10.2024 in ***CM-18707-CII-2024 in ITA No.156 of 2016 – Principal Commissioner of Income Tax (Central), Ludhiana Vs. M/s Krypton Datamatics Ltd.*** wherein this Court had declined to direct the revenue

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to withdraw an appeal against an order of the ITAT setting aside an order under Section 263 of the Act, since such an appeal fell within exception (f) of para 3.1 of circular No.5/2024 and because circulars by the CBDT are only administrative directions to the income tax authorities which an assessee cannot enforce as of right.

6. Learned counsel for the parties have been heard.

ANALYSIS AND CONCLUSION

7. Circular No.5/2024 dated 15.03.2024 was issued by the CBDT laying down monetary limits for filing of appeals by the revenue before the Income Tax Appellate Tribunals, the High Courts and the Supreme Court. This circular was issued under Section 268A of the Act. As per the circular if the tax effect in the appeal to be filed by the revenue before the Income Tax Appellate Tribunals or the High Courts or the Supreme Court was less than Rs.50 lakhs, Rs.1 crore and Rs.2 crores respectively, then such appeals should not be filed. However, exceptions were carved out within the circular where the decision to file appeals/ SLPs was required to be taken on merits by disregarding the tax effect and the prescribed monetary limits.

Circular No.5/2024 was amended through CBDT's circular No.09/2024 dated 17.09.2024 through which the prescribed monetary limits were enhanced from Rs.50 lakhs to Rs.60 lakhs in the case of filing of appeals before the Income Tax Appellate Tribunals; from Rs.1 crore to Rs.2 crores with regard to filing of appeals before the High Courts and from Rs.2 crores to Rs.5 crores regarding appeals/SLPs to be filed before the Supreme Court. The other noticeable amendment was that circular No.5/2024 was also applied to pending appeals/SLPs.

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Clause 3.1 of CBDT's circular No.5/2024 carved out exceptions to the said circular. As per Clause 3.1 decisions with regard to filing of appeals which were covered under the exceptions were required to be taken on merits without regard to the tax effect involved.

8. Section 268A of the Act along with the CBDT's circulars No.05/2024 and 09/2024 are reproduced below for ready reference:-

Section 268A

"Filing of appeal or application for reference by income-tax authority.

268A. (1) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal or application for reference by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, it shall not preclude such authority from filing an appeal or application for reference on the same issue in the case of—

(a) the same assessee for any other assessment year; or

(b) any other assessee for the same or any other assessment year.

(3) Notwithstanding that no appeal or application for reference has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly."

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Circular No. 05/2024 dated 15.03.2024

"Circular No. 5/2024
F. No. 279/Misc.142/2007-ITJ (Pt.)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
New Delhi the 15thMarch, 2024

Subject: Circular u/s 268A of the Income-tax Act, 1961 for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court-measures for reducing litigation-Reg.

Ref 1: Circular No. 3/2018 dated 11.07.2018
Ref 2: Circular No. 17/2019 dated 08.08.2019
Ref 3: Board's letter in F.No.279/Misc. 142/2007-ITJ (Pt) dated 20.08.2018

Reference is invited to the above wherein monetary limits and other conditions for filing Departmental appeals under the Income-tax Act, 1961 (hereinafter referred to as the Act) before Income Tax Appellate Tribunals ('ITAT'), Hon'ble High Courts ('HCs') and Special Leave Petitions ('SLPs')/ appeals before Hon'ble Supreme Court ('SC') were specified by the Central Board of Direct Taxes ('CBDT' or 'Board').

*2. In **supersession** of the above referred communications issued by CBDT, the following may be noted in respect of departmental appeals to be filed before ITATs and HCs and SLPs/ appeals before SC:*

3.1 Monetary limits given in paragraph 4 with regard to filing appeal/SLP shall be applicable to all cases including those relating to TDS/TCS under the Act with the following exceptions where the decision to appeal/file SLP shall be taken on merits, without regard to the tax effect and the monetary limits:

a. Where any provision of the Act or the Rules or notification issued thereunder has been held to be constitutionally invalid, or
b. Where any order, notification, instruction or circular of the Board or the Government has been held to be illegal or ultra vires the Act or otherwise constitutionally invalid, or
c. Where the assessment is based on information in respect of any offence alleged to have been committed under any other law received from any of the law enforcement or intelligence agencies such as CBI, ED, DRI, SFIO, NIA, NCB, DGGI, state law enforcement agencies such as State Police, State Vigilance Bureau, State Anti-Corruption Bureau, State Excise Department, State Sales/Commercial Taxes or GST Department, or

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d. Where the case is one in which prosecution has been filed by the Department in the relevant case and the trial is pending in any Court or conviction order has been passed and the same has not been compounded, or

e. Where strictures/adverse comments have been passed and/or cost has been levied against the Department of Revenue, CBDT or their officers, or

f. Where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under sections 10(23C), 12A/12AA/12AB of the Act, order passed u/s 263 of the Act etc. The reference to cases involving sections referred here, where it is not possible to quantify tax effect or tax effect is not involved, is for the purpose of illustration only.

g. Where addition relates to undisclosed foreign income/undisclosed foreign assets (including financial assets)/undisclosed foreign bank account, or

h. Cases involving organized tax evasion including cases of bogus capital gain/loss through penny stocks and cases of accommodation entries, or

i. Where mandated by a Court's directions, or

j. Writ matters, or

k. Matters related to wealth tax, fringe benefit tax, equalization levy and any matter other than the Income Tax Act, or

l. In respect of litigation arising out of disputes related to TDS/TCS matters in both domestic and International taxation charges:-

i. Where dispute relates to the determination of the nature of transaction such that the liability to deduct TDS/TCS thereon or otherwise is under question, or

ii. Appeals of International taxation charges where the dispute relates to the applicability of the provisions of a Double Taxation Avoidance Agreement or otherwise

m. Any other case or class of cases where in the opinion of the Board it is necessary to contest in the interest of justice or revenue and specified so by a circular issued by Board in this regard.

3.2 Attention is drawn to Circular No. 8/2023 issued vide F.No. 279/Misc./M-93/2018-ITJ(Pt.) dated 31.05.2023 in respect of deferral of appeals u/s 158AB of the Act. Exceptions in such cases operate as follows:

a. When judicial finality is achieved in favour of Revenue in the 'other case', appeal in the 'relevant case' is contested on merits subsequent to the decision in the 'other case' irrespective of the extant monetary limits.

b. If the judicial outcome in the 'other case' is not in favour of Revenue and is not accepted by the Department, appeal against the same may be contested on merits in the 'other case' irrespective of the extant monetary limits, to arrive at judicial finality.

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4.1 Appeals/ SLPs, not falling in the exceptions as detailed in para 3 above, shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

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

4.2 It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case. The officers concerned shall keep in mind the overall objective of reducing unnecessary litigation and providing certainty to taxpayers on their Income-tax assessments while taking a decision regarding filing an appeal.

5.1 For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as 'disputed issues'). Further, 'tax effect' shall be tax including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.

5.2 Further, where income is computed under the provisions of section 115JB or section 115JC, for the purposes of determination of 'tax effect', tax on the total income assessed shall be computed as per the following formula-

$(A-B)+(C-D)$

where,
A= the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B= the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of the disputed issues under general provisions;

C= the total income assessed as per the provisions contained in section 115JB or section 115JC;

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D= the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC was reduced by the amount of disputed issues under the said provisions:

However, where the amount of disputed issues is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

5.3 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, in 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 4.1. 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 4.1. 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 assessment 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 4.1. In case where a composite order/judgement involves more than one assessee, each assessee shall be dealt with separately. It is clarified that the contents of this paragraph are subject to para 3.2, above.

5.4 For calculating the tax effect of cases involving TDS/TCS, the cumulative effect, of all orders passed for an assessment year of a deductor, shall be taken into account and shall include interest u/s 201(1A) of the Act.

6.1 In a case where appeal before a Tribunal or a Court is not filed only on account of the tax effect being less than the monetary limit specified above, the Pr. Commissioner of Income-tax/ Commissioner of Income-tax shall specifically record that,

"Even though the decision is not acceptable, appeal is not being filed only on the consideration that the tax effect is less than the monetary limit specified in the CBDT Circular dated <>".

6.2 Further, in such cases, there will be no presumption that the Income Tax Department has acquiesced in the decision on the disputed issues. The Income Tax Department shall not be precluded from filing an appeal against the disputed issues in the case of the same assessee for any other assessment year, or in the case of any other assessee for the same or any other assessment year, if the tax effect exceeds the specified monetary limits.

7. In the past, a number of instances have come to the notice of the Board, whereby an assessee has claimed relief from the Tribunal or the Court only on the ground that the Department has implicitly accepted the decision of the Tribunal or Court in the case of the

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assessee for any other assessment year or in the case of any other assessee for the same or any other assessment year, by not filing an appeal on the same disputed issues. The Departmental representatives/ counsels must make every effort to bring to the notice of the Tribunal or the Court that the appeal in such cases was not filed or not admitted only for the reason of the tax effect being less than the specified monetary limit and, therefore, no inference should be drawn that the decisions rendered therein were acceptable to the Department. Accordingly, they should impress upon the Tribunal or the Court that such cases do not have any precedent value and also bring to the notice of the Tribunal/ Court the provisions of sub section (4) of section 268A of the Act which read as under:

> *"(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case."*

8. As the evidence of not filing appeal due to this Circular may have to be produced in courts, the judicial folders in the office of Pr.CsIT/CsIT must be maintained in a systematic manner for easy retrieval. In cases where appeals are not being filed due to low tax effect despite the judgment not being acceptable on merits or appeals are being filed despite low tax effect in view of exceptions, the Pr. CIT/CIT shall submit a monthly report, to the CIT(J)/Addl./Jt. CIT(J) office, as per Annexures-Al and A2, respectively of CBDT's Instruction No. 1/2024 dated 09.02.2024 (issued in F.No. 279/Misc./33/2014-ITJ). Further, the CIT(J)/ Addl/Jt CIT(J) office shall collate and disseminate the departmental stand, as regards filing of appeals, in respect of the issues involved in such appeals, within the region.

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

10. This issues under section 268A of the Act and shall come into effect from the date of issue of this Circular. This Circular will apply to SLPs/appeals to be filed henceforth before the SC/HCs/Tribunals.

11. Hindi version will follow.

-sd-
(Tanay Sharma)
Jt.CIT(OSD)-ITJ, CBDT
New Delhi"

Circular No. 09/2024 dated 17.09.2024

"Circular No. 09/2024

F.No.279/Misc./M-74/2024-ITJ
Government of India
Ministry of Finance
Department of Revenue

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Central Board of Direct Taxes

New Delhi, 17th September, 2024

Sub:- ***Further enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court: amendment to Circular 5 of 2024- Measures for reducing litigation - Reg.***

Reference is invited to Circular No 5/2024 (F.No.279/Misc.142/2007-ITJ(Pt.)) dated 15.03.2024 of Central Board of Direct Taxes (the 'Board') vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLP/appeals before Supreme Court have been specified. Further, exceptions to the monetary limits were also specified vide paras 3.1 and 3.2 of the said Circular.

2. As a step towards management of litigation, it has been decided by the Board to revise the monetary limits for filing of appeals in Income-tax cases as stated in Para 4.1 of the aforementioned Circular as follows:

Sl. No.	*Appeals/SLPs in Income-tax matters*	*Monetary Limit (Tax effect in ₹)*
1.	*Before Income Tax Appellate Tribunal*	*60 lakh*
2.	*Before High Court*	*2 crore*
3.	*Before Supreme Court*	*5 crore*

3. Monetary limits given in paragraph 2 above with regard to filing appeal/SLP shall be applicable to all cases including those relating to TDS/TCS under the Income-tax Act, 1961 with exceptions as per paras 3.1 and 3.2 of Circular No 5/2024 dated 15.03.2024, where the decision to appeal/file SLP shall be taken on merits, without regard to the tax effect and the monetary limits.

4. It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case. The officers concerned shall keep in mind the overall objective of reducing unnecessary litigation and providing certainty to taxpayers on their Income-tax assessments while taking a decision regarding filing an appeal.

5. The modifications shall come into effect from the date of issue of this Circular. This Circular will apply to SLPs/appeals to be filed henceforth in SC/HCs/Tribunal. It shall also apply to the SLPs/

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appeals pending before Supreme Court/High Courts/Tribunal, which may accordingly be withdrawn.

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

7. This issues under section 268A of the Income-tax Act, 1961.

8. Hindi version will follow.

-sd-
(Divya Chaudhary)
Deputy Secretary (ITJ)
CBDT, New Delhi"

9. Section 268A of the Act enables the CBDT to issue orders, instructions or directions to the Income Tax Authorities, fixing monetary limits for the purpose of regulating filing of appeals or applications before the Tribunal/Courts. Any circular issued under Section 268A of the Act would bind the Income Tax Authorities.

10. Circulars No.05 and 09, both of the year 2024, have been issued by the CBDT under Section 268A of the Act. The underlying purpose behind these circulars is to regulate and reduce litigation to be filed at the instance of the revenue. These circulars are in line with the National Litigation Policy. They aim at reducing, to some extent, the heavily clogged dockets in the Income Tax Appellate Tribunals, the High Courts and the Supreme Court, allowing the Appellate Tribunals, the High Courts and the Supreme Court to devote more time on matters which require more attention. These circulars also intend to save time and resources of the Income Tax Authorities.

11. Under the CBDT's circulars No.5 and 9, both of the year 2024, appeals to be filed or appeals already filed by the revenue, in which the tax effect is below the prescribed monetary limits and which do not fall within the exceptions carved out within the same circulars, are not required be filed or if already filed, withdrawn. Decisions to file appeals by the Income Tax

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Authorities, irrespective of the exceptions carved out within the circulars, are mandated to be taken on merits. The Income Tax Authorities have further been instructed to refrain from filing frivolous appeals.

12. Clause 3.1(f) of CBDT's circular No.5/2024, which is relevant for the purpose of deciding the present appeal, carves out an exception from applicability of the circular. The said clause illustratively makes reference to proceedings under sections 10 (23C), 12A, 12AA and 12AB of the Act, which provisions of the Act apply to cases of registration of trusts or institutions as also to proceedings under Section 263 of the Act. However, the said clause clarifies that the exception under Clause 3.1(f) is only to apply to cases where the tax effect is not involved or is not possible to quantify. Thus, even in an appeal arising out of an order passed under Section 263 of the Act if it is possible to quantify the tax effect and the tax effect so quantified is less than the prescribed monetary limit for filing or maintaining of the appeal, then keeping in view the overall purpose behind issuance of the CBDT's circulars No.05 and 09, both of the year 2024, such appeal should not be filed by the competent income tax authority and if already filed, should be withdrawn. To hold otherwise would defeat the very purpose behind issuance of the circulars in question which circulars, having been issued under Section 268A of the Act, would bind the income tax authorities. Such construction would also be contrary to the National Litigation Policy.

13. In the present case, the tax effect stands quantified. In paragraph No.3 of the memorandum of appeal it is clearly stated by the revenue that the tax effect involved is Rs.1,41,07,867/-. In paragraph No.7 of the appeal the aforesaid tax effect involved in the appeal is reiterated. The appeal is supported by an

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affidavit dated 21.05.2018 of the PCIT. Nothing has been placed on the record of this Court or shown to us by the revenue to the contrary.

14. Through filing of its income tax return for the assessment year 2012-13, the respondent-assessee had sought deduction under Section 80-IA of the Act for an amount of Rs.4,56,56,527/- which was granted through assessment order dated 20.12.2014. Through order dated 29.03.2017, passed under Section 263 of the Act, the PCIT was of the view that grant of deduction to the respondent was erroneous and prejudicial to the revenue. Resultantly, the matter was remitted to the respondent's AO requiring him to re-assess the income of the respondent-assessee for the relevant assessment year "in accordance with the facts discussed" in the order of the PCIT. The order of the PCIT dated 29.03.2017 was challenged by the respondent-assessee through filing of an appeal before ITAT which was allowed on 01.12.2017 which order of the ITAT has been challenged by the revenue through the instant appeal but since, this Court had not granted any stay of proceedings, the respondent's AO, in terms of the order of the PCIT dated 29.03.2017, passed under Section 263 of the Act, went on to re-assess and re-compute the respondent-assessee's income for the assessment year 2012-13. Resultantly, after disallowing the deduction claimed by the respondent-assessee under Section 80-IA of the Act, through assessment order dated 19.12.2017, a demand was raised on the respondent-assessee to pay income tax @ Rs.1,41,07,867/-. Thus, in terms of the order of the PCIT dated 29.03.2017, passed under Section 263 of the Act, the tax effect stood quantified @ Rs.1,41,07,867/-. The revenue did not challenge the assessment order or even sought enhancement in the tax computed therein.

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The afore referred assessment order dated 19.12.2017, passed in terms of the PCIT's order under Section 263 of the Act was not challenged by the revenue but the respondent-assessee did so through filing of an appeal which was accepted by the CIT(A) through his order dated 06.09.2023. Against the order of CIT(A) dated 06.09.2023 the revenue filed an appeal before the ITAT which was dismissed on 30.08.2025. Since, as per the revenue the tax involved in the matter was below Rs.2 crores, the revenue decided not to challenge the order of the ITAT any further. Therefore, the revenue acknowledged that the tax effect involved in the matter was less than Rs. 2 crores.

15. Thus, in the present appeal, which is accompanied by an affidavit of the PCIT, the tax effect involved, stands quantified by the revenue to be Rs.1,41,07,867/-. The declared tax effect is based on assessment proceedings which followed the order of the PCIT dated 29.03.2017, passed under Section 263 of the Act and which proceedings were allowed to attain finality by the revenue. Nothing has also been placed on the record in this appeal or shown to us which would even question the tax effect involved in this appeal to be more than Rs. 2 crores. Thus, in the facts of the present case, in terms of the order of the PCIT dated 29.03.2017, passed under Section 263 of the Act, tax effect stood finally computed @ Rs.1,41,07,867/-, which, in terms of the CBDT's circulars No.5 and 9, both of 2024, is below the prescribed monetary limit.

16. Since, in the facts of the present appeal, the tax effect stands fully quantified, clause 3.1(f) of the circular No.5/2024 would not apply as an exception. Therefore, the decision of the revenue not to withdraw the instant appeal is contrary to the CBDT's circulars No.5/2024 and 9/2024, which

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

circulars, issued by the CBDT under Section 268A of the Act, would bind the appellant-income tax authorities.

17. The submission of the learned counsel for the revenue that in matters arising out of an order under Section 263 of the Act the tax effect is yet to be quantified, since the AO, on remand, is not bound by the observations of the PCIT and is competent to examine and raise a demand on any issue, in the facts of the present case, does not commend acceptance. Firstly, the monetary limits in the circulars operate on the "tax effect", which para 5.1 of Circular No.5/2024 defines by reference to the "disputed issues", that is, the issues against which the appeal is intended to be filed. The only issue that was the subject matter of the order of the PCIT dated 29.03.2017 and of the order of the ITAT dated 01.12.2017 is the admissibility of the deduction under Section 80-IA of the Act. The tax effect of this appeal is therefore the tax on the amount of Rs.4,56,56,527/-, which the revenue itself has quantified at Rs.1,41,07,867/- in paragraphs No.3 and 7 of the memorandum of appeal and in the affidavit of the PCIT. Additions that an AO could possibly have made on other issues are not "disputed issues" in this appeal and the tax on them cannot be added to the tax effect of this appeal. Secondly, the PCIT had directed the AO to re-assess the income of the respondent-assessee "in accordance with the facts discussed" in the order under Section 263 of the Act, which order was not challenged by the revenue. Whether, in a given case, an AO, on remand, could travel beyond the issue on which the revision was exercised need not be gone into here, for in the present case the AO has actually completed the exercise. He passed the assessment order dated 19.12.2017, made only the addition on account of the deduction under Section 80-IA of the Act and raised a demand of

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

Rs.1,41,07,867/-. The revenue neither challenged that assessment order nor sought enhancement of the tax computed therein, and that order has since been set aside by the CIT(A) and the ITAT, and attained finality. The possibility of additions on other issues, on which the revenue relies, is thus not a live one but a purely theoretical one, which stood exhausted long ago. If a circular, binding on the revenue under Section 268A of the Act, were to be rendered inapplicable on the strength of a mere theoretical possibility of some other addition, then every appeal arising out of an order under Section 263 of the Act would escape the monetary limits, which would convert an illustration given in Clause 3.1(f) into a blanket exemption, a result which the Clause itself does not contemplate.

18. Equally untenable is the contention of the revenue that since the tax is not quantified at the stage of Section 263 of the Act, this Court should refrain from applying the circulars. Clause 3.1(f) of Circular No.5/2024 carves out cases where the tax effect is “not quantifiable or not involved” and not cases where the tax effect is “not quantified”. There is a distinction between the two. An order under Section 263 of the Act may, on the date it is passed, leave the tax unquantified because the consequential assessment is yet to be framed, but that does not make the tax incapable of quantification. Where the revision is directed against a specific deduction or addition, as in the present case, the tax can be computed by applying the rates to the disputed amount, as para 5.1 of the Circular itself contemplates. Once the AO has given effect to the order under Section 263 of the Act and computed the tax, the tax effect stands quantified and the exception in Clause 3.1(f) is no longer attracted. It makes no difference that the revenue has approached this Court against the order of the ITAT for setting aside the order of the PCIT, rather than against the assessment order, because the

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

test under Clause 3.1(f) is quantifiability of the tax effect and not the identity of the order under challenge. The revenue cannot be permitted to blow hot and cold. It has itself pleaded and sworn to the tax effect of Rs.1,41,07,867/- in this appeal and it allowed the consequential assessment to attain finality as also that it did not carry the order of the ITAT dated 30.08.2025 any further for the reason that the tax effect involved was below Rs.2 crores. Having treated the same tax effect as quantified and below the monetary limit in the later round, the revenue cannot, in this appeal, say that it is unquantified. The contention that the question of maintainability under the circulars need not be answered because it was not raised as a substantial question of law is also without merit, as the maintainability of an appeal is a threshold issue and, by virtue of Section 268A(4) of the Act, this Court is required to have regard to the circulars issued under Section 268A(1) of the Act and the circumstances in which the appeal has been filed.

19. Reliance placed by the revenue on para 7 of Circular No.5/2024 is also misplaced. Para 7 deals with the situation where an assessee seeks relief from the Tribunal or the Court only on the plea that the Department has implicitly accepted the decision on the same disputed issue, in the case of the assessee for another assessment year or in the case of another assessee, by not filing an appeal. In such a situation, the departmental representatives are required to point out that the appeal was not filed only on account of low tax effect, that no inference of acceptance is to be drawn and that such a decision has no precedent value, in consonance with sub-sections (2) to (4) of Section 268A of the Act. The para neither deals with the maintainability of a departmental appeal nor confers any right on the revenue to maintain an appeal

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

which para 4.1 of the Circular, as revised by Circular No.9/2024, prohibits. The respondent-assessee has not pleaded acquiescence on the part of the revenue, has not relied on the non-filing of an appeal in any other case or for any other year and has not asked this Court to treat any order of the CIT (A) or the ITAT as a precedent. What it has pointed out is that the revenue is bound by the Circular and that the tax effect, as declared by the revenue in its own memorandum of appeal and in the affidavit of its PCIT, is below the prescribed limit. The assessment order dated 19.12.2017 is not a decision rendered in another year or in the case of another assessee; it is the order of the revenue's own AO for the very same assessment year, passed in compliance with the very order of the PCIT which is the foundation of this appeal, and it is referred to only as a record of the revenue's own computation of the tax effect, a fact that this Court can take note of in deciding the maintainability of the appeal. Para 7, therefore, has no application. Nor do we draw any inference that the revenue has accepted the correctness of the order of the ITAT dated 01.12.2017 or of the subsequent orders of the CIT(A) and the ITAT. Our conclusion is confined to the maintainability of this appeal in view of the Circulars. In keeping with Section 268A(2) of the Act and para 6.2 of the Circular, the right of the revenue to agitate the same issue in the case of the respondent-assessee for any other assessment year or in the case of any other assessee, where the tax effect exceeds the prescribed monetary limit, remains unaffected.

20. In the light of the above discussion, the present appeal, filed at the instance of the revenue, is held to be not maintainable.

21. The afore view of ours finds support by a catena of decisions rendered by various High Courts.

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

22. In a decision by a Division Bench of this Court dated 15.03.2023 in ***ITA No.160-2019 – Pr. Commissioner of Income Tax-2, Chandigarh vs. M/s City Beautiful Hotels and Resorts Pvt. Ltd.,*** an appeal preferred by the revenue challenging therein an order passed under Section 263 of the Act was held to be not maintainable on account of tax effect through the following order : -

> *"Learned counsel for the petitioner has placed on record order dated 28.12.2017 Annexure R-1 whereby, the assessment order has been passed under Section 143(3)/263 of the Income Tax Act creating demand of Rs.1,18,70,000/-. The assessee went in appeal against the said order and the same was partly allowed by the CIT on 07.12.2018 (Annexure R-2) and demand of Rs.64,12,850/- was set aside and thereafter the Revenue went in appeal. The Tribunal vide order dated 05.09.2019 (Annexure R-3) dismissed the appeal of the Revenue. The said order dated 05.09.2019 (Annexure R-3) has attained finality.*
>
> *Counsel for the appellant submits that since the tax effect is lower than one crore, the present appeal is not maintainable in view of the circular dated 08.08.2019. Therefore, she be permitted to withdraw the instant appeal with liberty to avail the alternate remedy, in accordance with law.*
>
> *In view of the above, the present appeal is dismissed as withdrawn, however, in case any exception is made out, liberty is granted to take appropriate steps in accordance with law.*
>
> *Pending application, if any, also stands disposed of.*

23. Similarly, another Division Bench of this Court through its decision dated 05.03.2026 in ***ITA No.338-2009 – Commissioner of Income Tax-II vs. M/s Bhardwaj Builders Chandigarh*** held that even where the revenue has challenged the orders passed under Section 263 of the Act the appeal could be held to be not maintainable if the tax effect involved is less than the monetary

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

limits fixed by the circulars of the CBDT issued under Section 268A of the Act. The judgment in ***M/s Bhardwaj Builders'*** case (supra) reads as follows:-

> *"1. Learned counsel for the respondent at the outset submits that amount of tax involved is less than Rs.50 lacs. As per circular No.5/2024 dated 15.03.2024 issued by Central Board of Direct Taxes (for short 'CBDT'), appeal is not maintainable. This Court vide order dated 15.03.2023 has dismissed as withdrawn ITA-160-2019 though there was order by Commissioner under Section 263 of Income Tax Act, 1961 (for short '1961 Act'). Gujarat High Court in "Principal Commissioner Income Tax Vs. VinodbhaiRanchhodbhai Parekh", Law Finder Doc ID#1713079 has clearly held that appeal cannot be entertained merely on the ground that order was passed under Section 263 of 1961.*
>
> *2. Learned counsel for appellant submits that as per Clause (f) of paragraph 3.1 of aforesaid circular, appeal is maintainable despite tax effect being less than monetary limit.*
>
> *3. Gujarat High Court in Vinodbhai Ranchhodbhai Parekh (supra) noticing CBDT circular has clearly held that monetary limit is applicable even where order has been passed under Section 263 of 1961 Act. In the case in hand, amount of tax involved is less than Rs.50 lacs and as per order dated 15.03.2023 of this Court in ITA-160-2019 and Gujarat High Court in Vinodbhai Ranchhodbhai Parekh (supra) appeal is liable to be dismissed as withdrawn, however, learned counsel for appellant is not willing to withdraw, thus, dismissed on the ground of monetary limit.*
>
> *4. Pending application(s), if any, stands disposed of."*

24. Through a decision dated 09.07.2026 in ***ITA No.34-2025 – Deputy Commissioner of Income Tax, (Intl. tax.), Jaipur vs. Sajjad Ali*****,** a Division Bench of the Rajasthan High Court dismissed an appeal filed by the revenue being not maintainable in view of CBDT's Circular No.9/2024 for the reason

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

that the tax effect involved in such appeal, challenging an order under Section 263 of the Act, was below Rs.2 crores. The relevant portion of the judgment in ***Sajjad Ali's*** case (supra) is reproduced below:-

> *"8. The position that emerges, therefore, is this: even if the tax effect is treated as not presently quantifiable, and even if it were to be quantified hereafter upon remand to the Assessing Officer, it would, on the appellant's own showing, not exceed ₹2 crores in any eventuality. Clause 3.1(f) cannot be pressed into service to sustain an appeal where the maximum conceivable tax effect admittedly falls below the prescribed monetary limit; to hold otherwise would defeat the very object of the Circular. The appeal, in our considered view, is thus not maintainable."*

25. To the same effect is the Division Bench judgment of the Allahabad High Court in ***ITA No.61 of 2024 – Principal Commissioner of Income-tax vs. Bhupendra Sharma (HUF)*** wherein it was held as follows:-

> ***"8.*** *Upon a careful perusal of the relevant clauses of the aforesaid circular, it appears that where the tax liability is not quantifiable or is not involved, in such cases the order passed under Section 263 of the Act would fall under the exception provided in Clause 3.1(f). In the present case, such is not the case and the entire issue is with regard to the tax, and quantification of the same has also been made by the Assessing Officer. As the quantum involved is below Rs 1 crore, in our view, the appeal is covered by the said circular and is not maintainable before this Court.*
>
> ***9.*** *In light of the same, the appeal filed by the revenue is not maintainable and the same is, accordingly, dismissed."*

26. Recently, a Division Bench of the Delhi High Court in ***Principal Commissioner of Income-tax vs. Nivesh Group (2026) 185 taxmann.com 182 (Delhi)*** also held that even if the revenue has challenged the proceedings under

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

Section 263 of the Act such appeal in terms of CBDT's Circular No.5/2024 read with Circular No.9/2024 is liable to be held to be not maintainable if the tax effect involved therein is below the prescribed monetary limit in the afore referred circulars. The relevant portion of the said judgment reads as follows:-

> ***"5.*** *Having heard learned counsel for the parties and after going through the above referred order dated 4-12-2025 relied upon by learned counsel for the respondent, we are of the view that in light of the said order which was passed relying upon Allahabad High Court judgment in the case of principal Commissioner of Income-tax v. Bhupendra Sharma (HUF), IT Appeal No. 61 of 2024, decided on 7-8-2024, the appeal is liable to be dismissed because in identical circumstances, this Court has dismissed the appeal in light of the circulars. The relevant paras of the order dated 4-12-2025 passed by the coordinate Bench read thus:*
>
> > *"4. According to him, as the tax effect has been shown as Rs 1,30,66,999, which is less than Rs 2 crores, the present appeal should be dismissed as not maintainable, because of low tax effect.*
> >
> > *5. Keeping in view of the circular 5 of 2024 read with circular No. 9 of 2024, the submission of Mr Shlok Chandra SSC is that the present appeal is maintainable as the same falls within the exception clause carved out in the circular No. 5 of 2024. More specifically 3.1(f), which reads as under:*
> >
> > > *"3.1. f. Where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under Sections 10(23C), 12/A/12AA/12AB of the Act, order passed u/s 263 of the Act, etc. The reference to cases involving sections referred here, where it is not possible to quantify tax effect or tax effect is not involved, is for the purpose of illustration only."*
> >
> > *6. It is his submission that a reading of the clause would reveal that in certain cases where the tax effect cannot be quantified, like under Sections 10(23C), 12/A/12AA/12AB or*

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

an order passed u/s 263 of the Act, the appeal shall be maintainable.

7. At this stage, learned counsel for the respondent has relied upon the judgment of the Allahabad High Court in the case of principal Commissioner of Income-tax v. Bhupendra Sharma (HUF), IT Appeal No. 61 of 2024, decided on 7-8-2024 to contend that in similar facts wherein an order was passed under Section 263 of the Act remanding the matter to the Assessing Officer with a direction to pass a fresh Assessment Order after making certain inquiries and the Assessing Officer had quantified the return income as Rs 32,61,751, the Allahabad High Court by noting the Clause 3.1(f) of the circular of 5 of 2024 has dismissed the appeal filed by the Revenue as not maintainable.

8. Having seen the judgment passed by the Allahabad High Court and also the fact that after the order under Section 263 of the Act was passed by the PCIT in the case in hand, the Assessing Officer having passed the Assessment Order of which reference has been made in the aforesaid paragraph, we are of the view that keeping the question of law as raised by Mr Chandra before us and in view that the net tax effect depicted by the appellant in the appeal paper book as Rs 1,30,66,999 which is less than Rs 2 Crores, open, the appeal be closed."

6. *We, therefore, dismiss instant appeal in light of the circular No. 5 of 2024 dated 15-3-2024 and circular No. 9 of 2024 dated 17-9-2024.*

27. Learned counsel for the revenue placed reliance on the order of this Court dated 23.10.2024 in **CM-18707-CII-2024 in *ITA No.156 of 2016* – *Principal Commissioner of Income Tax (Central), Ludhiana vs. M/s Krypton Datamatics Ltd***.

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

28. ***Krypton Datamatics'*** case (supra) does not come to the aid of the revenue and is clearly distinguishable. Firstly, in ***Krypton Datamatics'*** case (supra) this Court did not decide that the appeal was maintainable. It merely declined to issue a mandatory direction and left the appeal for hearing. In the present case, the question of maintainability of the appeal squarely arises for decision. The Court has been called upon to determine whether, in view of the circulars issued under Section 268A(1) of the Act, this appeal can be maintained at all and, as per Section 268A(4) of the Act, it is bound to have regard to those circulars. Secondly, in ***Krypton Datamatics'*** case (supra), exception (f) of para 3.1 was held to apply only on the strength of the revenue's submission that the appeal arose out of an order of the ITAT setting aside an order under Section 263 of the Act. The order does not record that the tax effect was "not quantifiable", nor does it reflect that the tax effect had been quantified by the revenue by a consequential assessment which had attained finality. The question whether Clause 3.1(f) applies when the tax effect stands quantified, and the effect of the qualifying words "not quantifiable or not involved" in that Clause, was neither raised nor considered. ***Krypton Datamatics'*** case (supra) cannot be read as laying down that every appeal arising out of an order under Section 263 of the Act is maintainable irrespective of the tax effect, even when in the facts of the present case, the tax effect has been quantified by the revenue itself which is below the prescribed monetary limit. In the instant case the revenue has pleaded and sworn to a tax effect of Rs.1,41,07,867/-; the consequential assessment order dated 19.12.2017 raised a demand of the same amount and that order has attained finality, as discussed above. Thirdly, in the present case, the revenue has itself treated the tax effect involved here as below the monetary limit by not

SUNIL YADAV
2026.10.07 10:03
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Chandigarh

carrying the order of the ITAT dated 30.08.2025 any further, and has on its own withdrawn appeals against orders under Section 263 of the Act, in similar circumstances, as in ***City Beautiful Hotels and Resorts Pvt. Ltd.'s*** case (supra). Lastly, the view that an appeal against an order under Section 263 of the Act is not saved by Clause 3.1(f) when the tax effect is quantified and below the monetary limit has been taken by a later Division Bench of this Court in ***Bhardwaj Builders'*** case (supra), even though the revenue had pressed Clause 3.1(f) there, and in the afore referred judgments by the Rajasthan, Allahabad and Delhi High Courts in the decisions noticed above, with which we concur.

29. In the light of the above discussion, we find this appeal to be not maintainable and consequently, order its dismissal.

30. No costs.

(DEEPAK SIBAL)
JUDGE

(SUNISH BINDLISH)
JUDGE

06.10.2026
gk / sunil yadav

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

SUNIL YADAV
2026.10.07 10:03
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