

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.18259 OF 2017  
(Arising out of S.L.P. (Civil)No.27797 OF 2012)

COMMISSIONER OF INCOME TAX & ANR. ... APPELLANT(S)

VS.

M/S. LUWA INDIA PVT. LTD. ... RESPONDENT(S)

WITH

CIVIL APPEAL NO.18260 OF 2017  
(Arising out of S.L.P. (Civil)No.27798 OF 2012)

CIVIL APPEAL NO.18268 OF 2017  
(Arising out of S.L.P. (Civil)No.27806 OF 2012)

CIVIL APPEAL NO.18264 OF 2017  
(Arising out of S.L.P. (Civil)No.27803 OF 2012)

CIVIL APPEAL NO.18269 OF 2017  
(Arising out of S.L.P. (Civil)No.27810 OF 2012)

CIVIL APPEAL NO.18267 OF 2017  
(Arising out of S.L.P. (Civil)No.27805 OF 2012)

CIVIL APPEAL NO.18261 OF 2017  
(Arising out of S.L.P. (Civil)No.27799 OF 2012)

CIVIL APPEAL NO.18262 OF 2017  
(Arising out of S.L.P. (Civil)No.27800 OF 2012)

CIVIL APPEAL NO.18266 OF 2017  
(Arising out of S.L.P. (Civil)No.27804 OF 2012)

CIVIL APPEAL NO.18270 OF 2017  
(Arising out of S.L.P. (Civil)No.31168 OF 2012)

CIVIL APPEAL NO.18265 OF 2017  
(Arising out of S.L.P. (Civil)No.27809 OF 2012)

CIVIL APPEAL NO.18263 OF 2017  
(Arising out of S.L.P. (Civil)No.27802 OF 2012)

O R D E R

Leave granted.

The question raised in this batch of appeals is as to whether the instructions/circular issued by the Central Board of Direct Taxes on 9<sup>th</sup> February, 2011 will have retrospective operation or not.

This Court in *Commissioner of Income Tax-VIII, New Delhi v. Suman Dhamija* (Civil Appeal Nos.4949-4920/2015) has held that instructions/circular dated 9<sup>th</sup> February, 2011 is not retrospective in nature and they shall not govern cases which have been filed before 2011, and that, the same will govern only such cases which are filed after the issuance of the aforesaid instructions dated 9<sup>th</sup> February, 2011.

Learned counsel for the respondents relied upon circular dated 10<sup>th</sup> December, 2015 and specifically relied upon paragraph 10.

We are of the considered opinion that the Central Board of Direct Taxes cannot issue any circular having retrospective operation.

Respectfully following the above decision, we allow the instant appeals. The impugned order passed by the High Court is set aside. The matters are remitted back to the High Court for re-adjudication on merits and in accordance with law.

The Civil Appeals are allowed in the above terms.

.....J.  
[R.K. AGRAWAL]

.....J.  
[ABHAY MANOHAR SAPRE]

New Delhi;  
November 1, 2017.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 27797/2012

(Arising out of impugned final judgment and order dated 03-11-2011 in ITA No. 105/2007 passed by the High Court of Karnataka at Bangalore)

THE COMMISSIONER OF INCOME TAX &amp; ANR.

Petitioner(s)

VERSUS

M/S LUWA INDIA PVT. LTD.

Respondent(s)

WITH

SLP(C) Nos. 27798/2012, 27806/2012, 27803/2012, 27810/2012, 27805/2012, 27799/2012, 27800/2012, 27804/2012, 31168/2012, 27809/2012 and 27802/2012

Date : 01-11-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Mr. S.A.Haseeb,Adv.  
Ms. Shirin Khajuria,Adv.  
For Mrs. Anil Katiyar, AORFor Respondent(s) Mr. K. V. Mohan, AOR  
Mr. R.K.Raghavan,Adv.  
Mr. K.V.Balakrishnan,Adv.Mr. Senthil Jagadeesan, AOR  
Ms. Shruti Iyer,Adv.  
Ms. Sonakshi Malhan,Adv.  
Ms. Suriti Chowdhary,Adv.Mr. Shambu Nandy,Adv.  
Mr. Asit Kumar Roy,Adv.

Mr. Snehasish Mukherjee, AOR

UPON hearing the counsel the Court made the following

O R D E R

Heard.

Leave granted.

The appeals are allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(ANITA MALHOTRA)

COURT MASTER

(CHANDER BALA)

COURT MASTER

(Signed order is placed on the file.)