

IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH ' B '

BEFORE SHRI VIJAYPAL RAO, JUDICIAL MEMBER AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

I.T. A. Nos.819 & 823/Bang/2015  
(Assessment Years : 2005-06 & 2008-09)

Income Tax Officer,  
Ward 6(2)(1), Bangalore.

.... Appellant.

Vs.

Shri S. Devraj Pande,  
7<sup>th</sup> Main, Basaveshwaranagar,  
Bangalore.  
PAN ABLPP 7024R

..... Respondent.

Appellant By : Shri Ramesha G, JCIT (D.R)  
Respondent By : Sri Balram R Rao, Advocate.

Date of Hearing : 29.12.2015.  
Date of Pronouncement : 29.12.2015.

O R D E R

Per Shri Vijaypal Rao, J.M. :

These two appeals filed by Revenue directed against orders both dated 28.10.2014 of Commissioner of Income Tax (Appeals), Bangalore for Assessment Year 2005-06 & 2008-09 respectively.

02. When the appeals were taken up for hearing Ld. Counsel for the Assessee pointed out to the Ld. DR that tax effect involved in these appeals is less than Rs.10 lakhs for the impugned assessment years or the penalty levied which was deleted by the CIT (A)

was below Rs.10 lakh, and by virtue of Circular No.21/2015, dt.10.12.2015, are below the limits laid down for filing appeals before this Tribunal.

03. Ld. DR has not disputed the tax effect being below Rs.10 lakhs in the issue involved in the revenue's appeal. However Ld DR stated that existence or not of any Revenue audit objections leading to the filing of the appeal needed to be ascertained.

04. We have perused the orders and heard the contentions. Paras 3, 4 & 10 of the circular No.21/2015 (supra) is reproduced hereunder :

"3. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:—

S.No.	Appeals in Income-tax matters	Monetary Limit (in Rs.)
1.	Before Appellate Tribunal	10,00,000/-
2.	Before High Court	20,00,000/-
3.	Before Supreme Court	25,00,000/-

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

4. *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"). 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.*

*10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."*

05. The tax effect on the issues and / or the penalty that is disputed by the Revenue is less than Rs.10 lakhs for the impugned assessment year. Constitutional validity of any provisions of the Act or Rules nor the legality or vires of any Board order, Notification, Instruction or Circular was an issue before the lower authorities. Revenue has not brought to our notice anything to show that the appeal arose on an issue emanating from any Revenue Audit Objections accepted by the Department. Addition giving rise to the appeals does not relate to any undisclosed foreign assets / bank accounts. Thus we find that the circular No.21/ 2015 (supra) is squarely applicable in this case. However if Revenue, at a later stage find that appeal arise out of issues emanating from audit objection it will be free to file MP for recalling this order.

06. In the result, both the appeals of the Revenue are dismissed as not maintainable.

Order pronounced in the open court on 29<sup>th</sup> Dec., 2015.

Sd/-  
**(INTURI RAMA RAO)**  
Accountant Member

Sd/-  
**(VIJAYPAL RAO)**  
Judicial Member

\*Reddy gp