

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER
AND
BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

ITA No.1049/Bang/2014
(Assessment year: 2008-09)

Income-tax Officer,
Ward 10(2),
Bangalore.

... Appellant

Vs.

Shri Venkatesan,
7, Kaveri Layout,
DRC Post,
Suddagunta Palya,
Bangalore-560029
PAN: AAXPV 2457 P

... Respondent

Appellant by: Dr.P.K.Srihari, Addl.CIT(DR)
Respondent by: Shri Gangadhar Sastry K

Date of hearing : 29/12/2015
Date of pronouncement: 29/12/2015.

O R D E R

Per Smt.ASHA VIJAYARAGHAVAN, JM:

This is an appeal filed by Revenue directed against order dated 14/04/2014 of CIT (A),LTU, Bangalore, for A. Y.2008-09.

02. When the appeal was taken up for hearing Ld. Counsel for the Assessee pointed out that tax effect involved in this appeal

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was less than Rs.10 lakhs for the impugned assessment year and by virtue of Circular No.21/2015, dt.10.12.2015, was below the limits laid down for filing appeals before this Tribunal.

03. Ld. DR submitted that para 8 of the circular was applicable in this case. Therefore he did not object to the application of the circular. 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. Para 4 of the circular No.21/2015 (supra) is reproduced hereunder :

"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."

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 / years. Constitutional validity of any provisions of the Act or Rules nor the legality or vires of any

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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. With the above observations appeal of the Revenue is dismissed.

Pronounced in the open court on 29th December, 2015.

sd/-

(Abraham P George)
ACCOUNTANT MEMBER
eksrinivasulu,sps

sd/-

(Smt.Asha Vijayaraghavan)
JUDICIAL MEMBER

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore