

आयकर अपीलीय अधिकरण “एक-सदस्य मामला” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

श्री संजय अरोड़ा, लेखा सदस्य के समक्ष ।
BEFORE SHRI SANJAY ARORA, AM

आयकर अपील सं./I.T.A. No. 2055/Mum/2015

(निर्धारण वर्ष / Assessment Year: 2010-11)

Jt. CIT-19(2), Range-19(2), Room No. 212, Matru Mandir, Tardeo Road, Mumbai-400 007	बनाम/ Vs.	Kumar Rasiklal Mehta 602/603, Prasad Chambers, Opera House, Mumbai-400 004
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAOPM 3805 D		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri B. S. Bist
प्रत्यर्थी की ओर से/Respondent by	:	Shri R. K. Sinha

सुनवाई की तारीख / Date of Hearing	:	16.11.2015
Date of Order	:	03.12.2015

आदेश / ORDER

Per Sanjay Arora, A. M.:

This is an Appeal by the Revenue directed against the Order by the Commissioner of Income Tax (Appeals)-30, Mumbai ('CIT(A)' for short) dated 12.01.2015, partly allowing the Assessee's appeal contesting its assessment u/s.143(3) of the Income Tax Act, 1961 ('the Act' hereinafter) for the assessment year (A.Y.) 2010-11 vide order dated 09.3.2013.

2. At the very outset, it was submitted by the Id. Authorized Representative (AR), the assessee's counsel, that the tax-effect of the instant appeal filed on 08.9.2015, is much below the threshold monetary limit in its respect as prescribed by the Board vide Circular issued u/s.268A of the Act, i.e., Rs.4 lacs, adducing a copy of the relevant Board Instruction (No. 5 of 2014 dated 10.4.2014), applicable to the appeals by the Revenue filed on or after July 10, 2014. This, it was further explained by him, is on the issue in dispute being the assessment of the impugned capital gain (Rs.9.15 lacs) as short-term capital gain as against long-term capital gain returned by the assessee, and which entails a tax difference of 20%. The Id. Departmental Representative (DR) fairly conceded to this being the obtaining factual position.

3. The parties were heard, and the material on record perused. As confirmed from the assessment order, the impugned order and the grounds of appeal, the issue arising in appeal is in conformity with that stated by the Id. AR. The tax-effect is accordingly below Rs.4 lacs. Further, the appeal does not fall in any of the exceptions specified at para 8 of the Board Instruction supra. The instant appeal is, accordingly, not maintainable u/s.268A of the Act r/w Board Instruction issued in pursuance thereof and, rather, ought not to have been filed by the Revenue, even as stated in the Instruction itself. The same is, accordingly, dismissed as not maintainable.

4. In the result, the Revenue's appeal is dismissed.

परिणामतः राजस्व की अपील खारिज की जाती है ।

Order pronounced in the open court on November 16, 2015

Sd/-

(Sanjay Arora)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 03/12/2015

व.नि.स./Roshani, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai