

IN THE INCOME TAX APPELLATE TRIBUNAL "I" BENCH, MUMBAI
BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER
AND
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

I.T.A. No.1200/M/2011
(Assessment Year: **2007-2008**)

ACIT, Range-20(1), Mumbai.	बनाम/ Vs.	M/s. Amirali J. Dossa, 1, Sukhamani Niwas, 187-A, S.V. Road, Andheri (W), Mumbai-400 053.
स्थायी लेखा सं./PAN : AAAFD9246P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri B. Satyanarayana Raju, DR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Mayur A Shah

सुनवाई की तारीख /Date of Hearing : 04.01.2016

घोषणा की तारीख /Date of Pronouncement : 04.01.2016

आदेश / O R D E R

PER D. KARUNAKARA RAO, AM:

This appeal filed by the Revenue on 9.2.2011 is against the order of the CIT (A)-31, Mumbai dated 8.1.2010 for the assessment year 2007-2008.

2. At the outset, Ld Counsel for the assessee brought our attention to the grounds raised by the Revenue which relate to the CIT (A)'s decision in deleting the additions of Rs. 6,73,271/- made on account of 'bogus commission' and Rs. 23,28,916/- made on account of 'sale of old batteries not recorded'. In this regard, he mentioned that the tax effect in this appeal is below Rs. 10 lakhs and therefore, the appeal of the Revenue is not maintainable. In support of his argument, he brought our attention to the recently issued **CBDT Circular No.21/2015, dated 10.12.2015** and submitted that the appeals filed by the Revenue with a tax effect of Rs. 10 lakhs and below are to be either dismissed by the Tribunal as not maintainable or not pressed by the Revenue. Referring to the above mentioned Board Circular No.21/2015, Ld Counsel for the assessee brought our attention to para 10 and submitted that the said monetary limitation of Rs. 10 lakhs applies to all

the appeals filed by the Revenue retrospectively. Considering the significance of the said para 10 of the CBDT Circular (supra) is extracted as under:-

"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 Pending appeals below the specified tax limits in para 3 above may be withdrawn / not pressed.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."

3. Considering the above, the appeal filed by the Revenue, wherein the tax effect is below the above stated tax limit of Rs. 10 lakhs, is dismissed as not maintainable.

4. In the result, **appeal of the Revenue is dismissed.**

Order pronounced in the open court on 4th January, 2016.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 4.1.2016
व.नि.स./ OKK, Sr. PS

Sd/-
(D. KARUNAKARA RAO)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रहित/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
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

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