

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER
AND SHRI JOGINDER SINGH, JUDICIAL MEMBER

ITA No. 6576/MUM/2013
(Assessment Year : 2004-05)

The ITO 23(2)(1),
Building No.C-10, Room No.201,
Bandra Kurla Complex, Bandra (E)
Mumbai 400 051

... Appellant

Vs.

Smt. Anita J. Lalwani,
Yashoda Villa, 1st Floor,
P.K. Industrial Estate,
Dr.R.P.Road, Mulund (W)
Mumbai 400080
PAN:AAAPL4171F

.... Respondent

Appellant by : Shri Aarsi Prasad
Respondent by : None

Date of hearing : 08/02/2016
Date of pronouncement : 08/02/2016

ORDER

PER G.S. PANNU,AM:

The captioned appeal by the Revenue is directed against the order of the CIT(A)-31, Mumbai dated 13/08/2013 pertaining to the Assessment Year 2004-05, which in turn has arisen from the order passed by the Assessing Officer dated 28/12/2011 under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act').

2. The CBDT vide Circular No.21/2015 dated 10/12/2015 has revised the monetary limits for filing of appeals by the Department before the Tribunal retrospectively. The tax effect in dispute in the captioned appeal is stated to be below the monetary limit of Rs.10.00 lacs specified in the CBDT Circular dated 10/12/2015 (supra).

3. In this background, Ld. Departmental Representative appearing for the Revenue was required to state his position. He has not brought out any material to suggest that the captioned appeal is protected by any of the circumstances prescribed in Para-8 of the Circular dated 10/12/2015 (supra) and as a consequence such appeals are liable to be treated as withdrawn/not pressed. The relevant portion of the circular dated 10/12/2015 (supra) is reproduced below:-

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

<i>Sl. No.</i>	<i>Appeals in Income-tax matters</i>	<i>Monetary Limits (In Rs.)</i>
<i>1.</i>	<i>Before Appellate Tribunal</i>	<i>10,00,000</i>
<i>2.</i>	<i>Before High Court</i>	<i>20,00,000</i>
<i>3.</i>	<i>Before Supreme Court</i>	<i>25,00,000</i>

.....

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.

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8. *Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:*

- (a) *Where the Constitutional validity of the provisions of an Act or Rule are under challenge, or*
- (b) *Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or*
- (c) *Where Revenue Audit objection in the case has been accepted by the Department, or*
- (d) *Where the addition relates to undisclosed foreign assets/ bank accounts.*

9. *The monetary limits specified in para 3 above shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules. Further, filing of appeal in cases of Income Tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A of the IT Act, 1961, shall not be governed by the limits specified in para 3 above and decision to file appeal in such cases may be taken on merits of a particular case.*

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 withdrawal 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."*

(underlined for emphasis by us)

4. Without going into the merit of the issues raised in the captioned appeal, this appeal is deemed to be withdrawn/not pressed as its filing is in contravention of the CBDT Circular dated 10/12/2015(supra).

6. In conclusion, by applying the CBDT Circular dated 10/12/2015(supra), the captioned appeal of the Revenue is dismissed as withdrawn/not pressed.

The above decision was pronounced in the open court at the conclusion of the hearing on 08/02/2016.

Sd/-
(JOGINDER SINGH)
JUDICIAL MEMBER
Mumbai, Dated 08/02/2016

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Vm, Sr. PS

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai