

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

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA Nos.712 & 713/M/2014
Assessment Years: 2002-03 & 2003-04**

Income Tax Officer-14(3)-2, 6 th Floor, Earnest House, Nariman Point, Mumbai - 400021	Vs.	M/s. Kevin Textiles Industries, 416, Gaumukh Galli, M.J. Market, Mumbai – 400 002 PAN: AA AFK2410Q
(Appellant)		(Respondent)

**CO Nos.57 & 58/M/2015
(ITA Nos.712 & 713/M/2015)
Assessment Years: 2002-03 & 2003-04**

M/s. Kevin Textiles Industries, 416, Gaumukh Galli, M.J. Market, Mumbai – 400 002 PAN: AA AFK2410Q	Vs.	Income Tax Officer-14(3)-2, 6 th Floor, Earnest House, Nariman Point, Mumbai - 400021
(Appellant)		(Respondent)

**ITA No.716/M/2014
Assessment Year: 2005-06**

Income Tax Officer-14(3)-2, 6 th Floor, Earnest House, Nariman Point, Mumbai - 400021	Vs.	M/s. Kiron & Co., Chandra Chowk, 521, 5 th Lane, M.J. Market, Mumbai – 400 002 PAN: AA AFK 6707E
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Nikita Agarwal, A.R. & Ms. Dinkle Hariya, A.R.
Revenue by : Shri A. Ramachandran, D.R.

Date of Hearing : 24.08.2016
Date of Pronouncement : 24.08.2016

ORDER

Per Sanjay Garg, Judicial Member:

The present is a bunch of appeals by the Revenue and corresponding cross objections by the assesseees.

2. The Ld. D.R., at the outset, has stated that the tax effect in the appeals of the Revenue is less than Rs.10 lakhs and the CBDT Circular No.21/2015 is applicable to these appeals and the appeals are not maintainable/not pressed in terms of the said CBDT Circular No.21/2015 dated 10/12/2015.

3. The CBDT vide Circular dated 10/12/2015 (supra) has revised the monetary limits for filing of appeals by the Department before the Tribunal whereby it has been provided that no appeal shall be filed by the Revenue in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3 of the said circular and further vide Para 10 of the said circular it has been clarified that said circular is applicable retrospectively to the pending appeals also and that pending appeals below the specified tax limits may be withdrawn/not pressed.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.

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. The tax effect in dispute in the captioned appeals is stated to be below the monetary limit of Rs.10.00 lacs as specified in the CBDT Circular dated 10/12/2015 (supra). The Ld. D.R. has not brought out any material to suggest that any of the captioned appeal is protected by any of the circumstances prescribed in Para-8 of the Circular dated 10/12/2015 (supra). He, therefore, has stated that in view of the above circular of the CBDT, the captioned appeals be treated as withdrawn/not pressed. Hence, without going into the merit of the issues raised in the present appeals, these appeals are treated as dismissed as withdrawn/not pressed as these being filed in contravention of the CBDT Circular dated 10/12/2015(supra) read with section 268A of the Income Tax Act. However, the Revenue will be at liberty to file an application for recall of any of these appeals in accordance with law, if at any stage it is found

that tax effect is more than Rs.10 lacs or the Revenue wants to agitate the matter in accordance with the provisions/clauses as contained in the aforesaid circular.

5. In the result, the captioned appeals filed by the Revenue are dismissed.

6. So far as the cross objections filed by the assessee are concerned, the Ld. A.R. of the assessee has made a statement that in view of the fact that the Revenue's appeals are being dismissed, she does not press the cross objections filed by the assesseees.

7. In view of the above, cross objections filed by the assessee are also dismissed.

8. In the result, the appeals of the Revenue as well as the cross objections of the assesseees are hereby dismissed.

Order pronounced in the open court on 24.08.2016.

Sd/-
(B.R. Baskaran)
ACCOUNTANT MEMBER

Sd/-
(Sanjay Garg)
JUDICIAL MEMBER

Mumbai, Dated: 24.08.2016.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.