

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "E", MUMBAI**

BEFORE SHRI B.R.BASKARAN (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No. 1787/MUM/2014
Assessment Year: 2007-08**

The DCIT Central Circle-40, Room No. 653, 6 th Floor, Aayakar Bhavan, M.K.Road, Mumbai- 400 020.	Vs.	Ms. Sangeeta Koyal, C-6, Viman Darshan Co-op Society, Garware Sahar Road, Andheri, Mumbai- 400 069. PAN- AAACE0308A
(Appellant)		(Respondent)

Appellant by : Shri. B. Pruseth
Respondent by : Shri. Vijay Kothari

Date of Hearing: 29/09/2016
Date of Pronouncement: 29/09/2016

ORDER

PER RAM LAL NEGI, JM

This appeal has been filed by the revenue against order dated 27/12/2013 passed by the Ld CIT(Appeals)-38, Mumbai for the assessment year 2007-08.

2. The revenue has challenged the impugned order on following effective grounds:-

1. *"On the facts and in the circumstances of the case and in law, the CIT(A) erred in deleting the addition made on account of capitalized amount of Rs.31,02,634/-, by not considering and deciding the issue on merits".*

2. *"On the facts and in the circumstances of the case and in law, the CIT(A) erred in allowing the appeal of the assessee by holding that only undisclosed income and undisclosed assets "detected during search" could be brought to tax".*

3 *"On the facts and in the circumstances of the case and in law, the CIT(A) erred in allowing the appeal of the assessee by in holding that the scope of Section 153A is limited to assessing only income based on the incriminating documents found during search, thereby denying revenue the opportunity of taxing other escaped income, that comes to the notice of the Assessing Officer".*

4 *"On the facts and in the circumstances of the case and in law, the CIT(A) erred in allowing the appeal of the assessee placing reliance on the decision of the jurisdictional Hon'ble ITAT, Mumbai bench (Special Bench) in the case of All Cargo Global Logistics Ltd. (137 ITD 287), whereas the decision in All Cargo Global Logistics Ltd has been further contested in appeal and the decision of the Hon'ble Mumbai High Court is still pending".*

3. At the outset, the Ld. Counsel for the assessee submitted that the tax effect in this case is below Rs.10,00,000/- Hence, as per the CBDT Circular No. 21 of 2015, dated 10/12/2015, the present appeal is not maintainable.

4. The Ld. DR fairly admitted that the tax effect in department's appeal is below Rs.10 Lakhs, We find that the issue raised in appeal does not fall under any of the exceptions specified in para 8 of the Circular. Since, it has been specifically clarified in the Circular aforesaid that the instruction will apply retrospectively to all the pending appeals; the present appeal filed by the revenue is not maintainable. We, therefore, dismiss the same *in limine*.

Order pronounced in the open court on 29th September, 2016

Sd/-

(B.R.BASKARAN)

ACCOUNTANT MEMBER

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 29/09/2016

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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

Pramila