

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER
AND
BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

ITA Nos.1244/Bang/2014
(Assessment years: 1997-98)
And
ITA Nos.1245/Bang/2014
(Assessment years: 1997-98)

Income-tax Officer,
Ward 1,
Bijapur. ... Appellant

Vs.

1. Shri Shashikant D.Mahindrakar,
Basaveshwar Road,
Bijapur.
2. Shri Ramakant D Mahindrakar
Basaveshwar Road,
Bijapur. ... Respondent

Appellant by: Dr.P.K.Srihari, Addl.CIT(DR)
Respondent by: Shri Ravi Shankar, Advocate.

Date of hearing : 29/12/2015
Date of pronouncement: 29/12/2015.

O R D E R

Per ABRAHAM P GEORGE, AM:

These are appeals filed by Revenue directed against orders of CIT (A), Belgaum for A. Y. 1997-98.

Page 2

02. When the appeals were taken up for hearing Ld. Counsel for the Assessee pointed out to the Ld. DR that tax effect involved in these appeals were less than Rs.10 lakhs for the impugned assessment years and therefore by virtue of Circular No.21/2015, dt.10.12.2015, were below the limits laid down for filing appeals before this Tribunal.

03. Ld. DR submitted that para 8 of the circular was not applicable in this case. Therefore he did not object to the application of the circular. However Ld. Dr stated that existence or not of any Revenue audit objections leading to the filing of the appeal needed to be ascertained.

04. We have perused the orders and heard the contentions. Para 4 of the circular No.21/2015 (supra) is reproduced hereunder :

"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."

Page 3

05. The tax effect on the issues that is disputed by the Revenue is less than Rs.10 lakhs for the impugned assessment years. Constitutional validity of any provisions of the Act or Rules nor the legality or vires of any Board order, Notification, Instruction or Circular was an issue before the lower authorities. Revenue has not brought to our notice anything to show that the appeal arose on an issue emanating from any Revenue Audit Objections accepted by the Department. Addition giving rise to the appeals does not relate to any undisclosed foreign assets / bank accounts. Thus we find that the circular No.21/ 2015 (supra) is squarely applicable in this case. However if Revenue, at a later stage find that appeal arise out of issues emanating from audit objection it will be free to file MP for recalling this order.

06. With the above observations appeals of the Revenue are dismissed.

Pronounced in the open court on 29th December, 2015.

sd/-
(Smt.Asha Vijayaraghavan)
JUDICIAL MEMBER

eksrinivasulu,sps

Copy to:

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

sd/-
(Abraham P George)
ACCOUNTANT MEMBER

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore