

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

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

**ITA No. 3887/MUM/2014  
Assessment Year: 2008-09**

The ITO-2(3), Room No. 708, 7 <sup>th</sup> Floor, Smt. K.G. MittalAuyurvedic Hospital Bldg, Charni Road Mumbai 400002.	<b>Vs.</b>	Midas Events P Ltd. 1/22 SVP Nagar, MHADA, VERSOVA, Andheri West Mumbai PAN- AADCM8984F
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri. Durga Dutt  
Respondent by : None

Date of Hearing: 14/06/2016  
Date of Pronouncement: 14/06/2016

**ORDER**

**PER RAM LAL NEGI, JM**

This appeal has been filed by the revenue against order dated 14/03/2012 passed by the Ld CIT(Appeals)-31, Mumbai for the assessment year 2005-06.

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

*i). "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in directing the AO to re-compute the penalty u/s 272A(2)(K) of the I.T. Act from the date of deposit of tax by the assessee till the date of filing TDS return.*

*ii). The Ld CIT(A) has erred, in facts and circumstances of the case and law, in not appreciating the provisions of section 272A(2)(k) r.w.s. 200(3) which clearly state that the penalty u/s 272A(2)(k) will be attracted when the assessee fails to furnish TDS return within the due dates prescribed in Rule 31A.”*

3. The case was called for hearing, however, none appeared on behalf of the assessee. We notice that the tax effect in this case is below Rs.10,00,000/- and 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 14<sup>th</sup>. June, 2016

sd/-

(B.R.BASKARAN)

ACCOUNTANT MEMBER

sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 14/06/2016

**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