

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member and
Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 912 /KOL/ 2015
Assessment Year: 2005-2006**

**Income Tax Officer,.....Appellant
Ward-1(4), Kolkata,
Aayakar Bhawan, 7th Floor,
P-7, Chowringhee Square,
Kolkata-700 069**

-Vs.-

**M/s. Marson's Power & Infrastructure Development Ltd.,.....Respondent
4, Chandni Chowk Street,
Kolkata-700 072
[PAN: AABCM 7726 M]**

Appearances by:

*Shri Shallong Yadin, Addl. CIT, D.R., for the Department
Shri K.M. Roy, F.C.A., for the assessee*

Date of concluding the hearing : July 27, 2017

Date of pronouncing the order : July 27, 2017

O R D E R

Per Shri P.M. Jagtap, A.M.:

This appeal is preferred by the Revenue against the order of Id. Commissioner of Income Tax (Appeals)-1, Kolkata dated 13.03.2015, whereby he deleted the addition of Rs.98,58,286/- made by the Assessing Officer to the total income of the assessee on account of long-term capital gains.

2. At the outset, it is noted that the tax effect involved in this appeal of the Revenue is Rs.9,85,829/- excluding surcharge and education cess. In the case of ACIT -vs.- M/s. Dallas Finance Limited (I.T.A. No.3946/DEL/2010 dated 07.04.2017), the Coordinate Bench of this Tribunal has held that surcharge and education cess shall not be included in the word "tax" for the purpose of examining tax effect as envisaged in Circular No. 21/2015 dated 10th December, 2015 issued by the CBDT. The tax effect involved in this appeal of the Revenue thus is less than the

revised monetary limit fixed by the CBDT vide Circular No. 21/2015 dated 10th December, 2015 at Rs.10,00,000/- for filing the appeal by the Revenue before the Tribunal and this position clearly evident from the grounds raised by the Revenue in this appeal is not disputed even by the ld. D.R. In Circular No. 21/2015 (supra) issued by the CBDT, the monetary limit for filing the appeals by the Revenue before the Tribunal has been increased to Rs.10,00,000/- and as clarified in the said Circular, the said monetary limit is applicable retrospectively even to the appeals pending before the Tribunal. The CBDT has also instructed that such pending appeals below this specified tax limit of Rs.10,00,000/- may be withdrawn/ not pressed. Keeping in view the instruction given by the CBDT vide Circular No. 21/2015 dated 10.12.2015, which is squarely applicable in the present case, the appeal filed by the Revenue in this case is treated as withdrawn/not pressed and dismissed accordingly.

3. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on July 27, 2017.

Sd/-
(S.S. Viswanethra Ravi)
Judicial Member

Sd/-
(P.M. Jagtap)
Accountant Member

Kolkata, the 27th day of July, 2017

- Copies to :
- (1) **Income Tax Officer,**
Ward-1(4), Kolkata,
Aayakar Bhawan, 7th Floor,
P-7, Chowringhee Square,
Kolkata-700 069
 - (2) **M/s. Marson's Power & Infrastructure Development Ltd.,**
4, Chandni Chowk Street,
Kolkata-700 072
 - (3) **Commissioner of Income Tax (Appeals)-1, Kolkata,**
 - (4) **Commissioner of Income Tax-** ,
 - (5) **The Departmental Representative**
 - (6) **Guard File**

By order
Senior Private Secretary,
Head of Office/DDO,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata