

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI
BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER
I.T.A .No. 510/DEL/2015
(ASSESSMENT YEAR-2006-07)

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| DCIT Central Circle-32 New Delhi (APPELLANT) | Vs | Remarkable Estate Pvt. Ltd. M-11, Middle Circle, Connaught Circus New Delhi AAACR5555N (RESPONDENT) |
|--------------------------------------------------------------|----|---------------------------------------------------------------------------------------------------------------------------|

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| Appellant by | Sh. Ajay Bhagwani, CA |
| Respondent by | Smt. Rachna Singh, CIT(DR) |

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| Date of Hearing | 27.12.2017 |
| Date of Pronouncement | 28.12.2017 |

ORDER

PER SUCHITRA KAMBLE, JM

This is an appeal filed by the Revenue. The Ld. AR pointed out that the Tax Effect is less than Rs. 10 lakhs.

2. The Ld. DR submitted that as per the decision of the Hon'ble Supreme Court in case of DIT Vs. S.R.M.B Dairy Farming (P) Ltd. dated 23/11/2017 and CIT Bangalore Vs. M/s Gemini Distilleries order dated 12th October 2017. The appeals filed prior to Circular dated 10th December 2015 being Circular No. 21/2015 will not come under the purview of tax effect of less than 10 lakhs.

3. The Ld. AR relied upon the Circular No. 21/2015 dated 10th December, 2015 and pointed out para 10 of the said Circular that this instruction will

apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals.

4. We have heard both the parties and perused the Apex Court decision in case of DIT Vs. S.R.M.B Dairy Farming (P) Ltd. and M/s Gemini Distilleries. In-fact, both the decisions of the Apex Court are related to the Circular dated 9/2/2011. The Hon'ble Apex Court has categorically pointed out that Circular dated 9/2/2011 cannot be given retrospective effect. Thus, both the decision of the Apex Court are related to Circular dated 9/2/2011 and not that of Circular No. 21/2015 dated 10th December, 2015. After going to the Circular dated 9/2/2011, it can be seen that there was no specific mention about the retrospective effect of the said Circular dated 9/2/2011 but in respect of Circular dated 20/12/2015 in Para 10, there is a specific mention that this instruction will apply retrospectively to pending appeals. The present appeal is filed on 23rd January 2015. Therefore, the Circular will apply and the contention of the Ld. DR will not sustain as both the Apex Court decisions are dealing with Circular dated 9/2/2011. Therefore, in light of Circular dated 10/12/2015, this appeal filed by the Revenue comes under the purview of Tax Effect below 10 lakhs . In result, appeal of the Revenue is dismissed for low tax effect as per Circular dated 10/12/2015.

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

Order pronounced in the Open Court on 28th December 2017.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 28/12/2017
*R. Naheed **

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

| | | Date | |
|-----|--------------------------------------------------|------------|-------|
| 1. | Draft dictated on | 27/12/2017 | PS |
| 2. | Draft placed before author | 28/12/2017 | PS |
| 3. | Draft proposed & placed before the second member | .2017 | JM/AM |
| 4. | Draft discussed/approved by Second Member. | | JM/AM |
| 5. | Approved Draft comes to the Sr.PS/PS | .12.2017 | PS/PS |
| 6. | Kept for pronouncement on | | PS |
| 7. | File sent to the Bench Clerk | .12.2017 | PS |
| 8. | Date on which file goes to the AR | | |
| 9. | Date on which file goes to the Head Clerk. | | |
| 10. | Date of dispatch of Order. | | |

