

THE INCOME TAX APPELLATE TRIBUNAL  
"C" Bench, Mumbai  
Before Shri B.R. Baskaran (AM) & Shri Ramlal Negi (JM)  
I.T.A. No. 3285/Mum/2016 (Assessment Year 2009-10)

The ACIT 19(2) Room No. 207 Matru Mandir Mumbai-400 007. (Appellant)	Vs.	Kirtilal M. Shah 30, Gajanan Darshan C.P. Tank Road Mumbai-400 004. (Respondent)
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C.O. No. 318/Mum/2017 (Assessment Year 2009-10)

Kirtilal M. Shah 30, Gajanan Darshan C.P. Tank Road Mumbai-400 004. (Appellant)	Vs.	The ACIT 19(2) Room No. 207 Matru Mandir Mumbai-400 007. (Respondent)
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PAN : AAHPS8248K

Assessee by	Shri Rajesh Chamaria
Department by	Shri Rajat Mittal
Date of Hearing	17.7.2018
Date of Pronouncement	17.7.2018

ORDER

PER BENCH:

The revenue has filed this appeal and the assessee has filed Cross objection challenging the order dated 08-02-2016 passed by Ld CIT(A)-30, Mumbai and it relates to the assessment year 2009-10. The revenue is aggrieved by the decision of Ld CIT(A) in deleting the addition made u/s 68 of the Act relating to share transactions.

2. At the time of hearing, we noticed that the quantum in dispute is Rs.41.05 lakhs and hence the tax effect involved therein is less than Rs.20.00 lakhs. The CBDT has issued a new Circular No.3/2018 dated 11.07.2018 in supersession of its earlier Circular No.21/2015 dated 10.12.2015. According to the Circular No.3/2018, the revenue is precluded from pursuing its appeal if the tax effect is Rs.20.00 lakhs or less. Apparently the issue in dispute does

not fall in any of the exceptions specified in paragraph 10 of the Circular No.3/2018, referred above. The Ld D.R, however, sought time to get a certificate from the PCIT/CIT concerned that the grounds urged in this appeal does not fall under any of the exceptions specified in the said circular. However, from the available material, he could not point out that the issue contested in this appeal fall in any of the exceptions.

3. We have noticed that the tax effect involved in this appeal is less than Rs.20.00 lakhs and the issue contested herein also apparently does not fall in any of the exceptions specified in the Circular. Accordingly we dismiss the appeal of the revenue in limine. However, the revenue is given liberty to move miscellaneous application seeking recall of this order, if it is found that the issue contested in this appeal falls in any of the exception provided in paragraph 10 of the Circular.

4. The Ld A.R did not press cross objection filed by the assessee.

5. In the result, the appeal of the revenue and the cross objection of the assessee are dismissed.

Order has been pronounced in the Court on 17.7.2018.

Sd/-  
(RAMLAL NEGI)  
JUDICIAL MEMBER

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 17/7/2018

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Senior Private Secretary)  
ITAT, Mumbai

PS