



ITA.No.4993/Mum/2016
&CO.No.216/Mum/2018
J.N. Marshall & Co.(Steel Dept.)
Assessment Year-2007-08

आयकर अपीलीय अधिकरण “एफ” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपीलसं./I.T.A. No. 4993/Mum/2016
(निर्धारणवर्ष / Assessment Year: 2007-08)

Income Tax Officer-17(2)(1) 1 st Floor, Aaykar Bhavan Mumbai – 400 020	बनाम/ Vs.	J.N. Marshall & Co.(Steel Dept) 5, Apeejay Chambers Wallace Street, Fort Mumbai – 400 001
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AACFJ-5661-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

Cross Objection No.216/Mum/2018
(निर्धारणवर्ष / Assessment Year: 2007-08)

J.N. Marshall & Co.(Steel Dept) 5, Apeejay Chambers Wallace Street, Fort Mumbai – 400 001	बनाम/ Vs.	Income Tax Officer-17(2)(1) 1 st Floor, Aaykar Bhavan Mumbai – 400 020
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AACFJ-5661-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Mallika Devendra, Ld. AR
Revenue by	:	Pooja Swaroop, Ld. Sr.DR

सुनवाई की तारीख/ Date of Hearing	:	23/07/2018
घोषणा की तारीख / Date of Pronouncement	:	31/07/2018



आदेश / O R D E R

Per Bench

1. The captioned appeal by revenue for Assessment Year [AY] 2007-08 contest the order of Ld. Commissioner of Income-Tax (Appeals)-28 [CIT(A)], Mumbai, *Appeal No. CIT(A)-28/IT-204/ITO-12(1)(4)/2014-15 dated 19/05/2016 qua* deletion of penalty u/s 271(1)(c) for Rs.13.75 Lacs as levied by Ld. AO vide order dated 29/05/2014. The assessee is in cross-objection against the same.
2. At the outset, Ld. Authorized Representative for assessee drew our attention to the fact that the quantum of penalty as contested by the revenue is less than prescribed limit of Rs.20 Lacs and the same is covered by recently issued *low tax effect* Circular No.03/2018 dated 11/07/2018 issued by *Central Board of Direct Taxes [CBDT]*. The Ld. DR, *Ms. Pooja Swaroop*, has controverted the same by submitting that necessary instructions / certificate, in this regard, would be required from higher authorities.
3. We have gone through the circular and find that the tax effect of quantum in dispute is below prescribed limit of Rs.20 Lacs and the assessee stood benefitted by the above circular issued by CBDT wherein the minimum monetary limit for filing the appeals before various appellate authorities have been fixed as under:-

S. No.	Appeals/ SLPs in Income-tax matters	Monetary Limit (Rs.)
1	<i>Before Appellate Tribunal</i>	<i>20.00,000</i>
2	<i>Before High Court</i>	<i>50.00,000</i>
3	<i>Before Supreme Court</i>	<i>1,00.00,000</i>



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The aforesaid limits, as per *para-13* of the circular apply to pending appeals also. Further as per *para-4* of the said circular, *tax effect* mean quantum of penalty deleted or reduced in the order to be appealed against. In view of the admitted position, we dismiss the revenue's appeal.

4. So far as the contentions raised by Ld. DR is concerned, we find that aforesaid circular does not envisage obtaining of any certificate from any authorities, in any manner. Nevertheless, the revenue is free to move appropriate application to recall this order, if at a later stage, it is found that the matter is covered by any exceptions provided in the aforesaid circular.

5. Resultantly, the appeal as well as cross-objection stand dismissed.

Order pronounced in the open court on 31st July, 2018

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 31.07.2018

Sr.PS:-Thirumalesh

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai