

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A" MUMBAI**

**BEFORE SHRI PAWAN SINGH (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 6575/MUM/2014
Assessment Year: 2005-06**

DC. Cir.6(1), R.No. 506, 5th
floor, Aayakar Bhavan, M.K.
Road, Mumbai-400020.

M/s Albertville
Exports Pvt. Ltd. A-
1,/419, Shah &Nahar,
Indl. Estate, S.J. Marg,
Lower Parel,
Mumbai-400012.

PAN No. AAACA0409Q

Appellant

Respondent

Revenue by : Mr. Rajesh Kumar Yadav, DR
Assessee by : Mr. Prasad Bapat, AR

Date of Hearing : 23/07/2018
Date of pronouncement : 30/07/2018

ORDER

PER N.K. PRADHAN, AM

This is an appeal filed by the revenue. The relevant assessment year is 2005-06. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-14 [in short 'CIT(A)'], Mumbai and arises out of the assessment completed u/s 143(3) r.w.s. 147 of the Income Tax Act 1961, (the 'Act').

2. At the beginning of the hearing, the Ld. counsel of the assessee brought to our notice Circular No. 3/2018 dated 11.07.2018 issued by the Central Board of Direct Taxes (CBDT) and submits that the tax effect is

below the monetary limit of Rs.20,00,000/- and hence the appeal filed by the revenue be dismissed as withdrawn.

The Ld. DR also refers to the above Circular issued by CBDT

3. We have heard the rival submissions and perused the relevant materials on record. We find that the Assessing Officer (AO) has completed the assessment u/s 143(3) on 29.10.2007 accepting the total income of Rs.37,78,389/-. Subsequently, the AO made *vide* order dated 16.12.2010 an addition of Rs.6,10,302/- (short term capital gains on sale of furniture and fixture) and Rs.14,40,865/- (unabsorbed depreciation). Aggrieved by the order of the AO, the assessee filed an appeal before the Ld. CIT(A). It has been mentioned at page 1 of the order dated 01.08.2014 by the Ld. CIT(A) that the income tax, interest demanded in this case comes to Rs.11,58,680/-. The Ld. CIT(A) quashed the assessment made u/s 147 by the AO. Revenue, being aggrieved by the order of the Ld. CIT(A), has filed this appeal before the Tribunal.

In the above Circular, it has been clarified that 'tax effect' shall be tax including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute.

The tax effect herein does not exceed the monetary limit of Rs.20,00,000/- fixed for filing appeal before the Tribunal.

At para 13 of the above Circular, it has been clearly mentioned that:

"13. This Circular will apply to SLPs/appeals/cross objections/references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively

to pending SLPs/appeals/cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.”

4. Considering the factual scenario narrated at para 3 hereinbefore, the appeal filed by the revenue is dismissed as not pressed.

Order pronounced in the open Court on 30/07/2018.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 30/07/2018

Rahul Sharma, Sr. P.S.

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,

(Dy./Asstt. Registrar)
ITAT, Mumbai