

IN THE INCOME TAX APPELLATE TRIBUNAL "K" BENCH, MUMBAI

BEFORE SHRI B. R. BASKARAN, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.3122/Mum/2017

(निर्धारण वर्ष / Assessment Year: 2011-12)

ITO, Ward 2(1), Thane Room No.25, 6 th Floor, Ashar IT Park, Wagle Indl. Estate, Road No. 16Z, Thane-400604.	बनाम/ Vs.	M/s. Jeevan Jyoti Builders and Developers, Shop No. 3, Radha Kishan Niwas, Opp. Post office, Bhayander (W), Dist. Thane-401101.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAFFJ8318P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

आयकर अपील सं/ I.T.A. No.3150/Mum/2017

(निर्धारण वर्ष / Assessment Year: 2012-13)

DCIT. Cent. Cir-7 (3) Room No.655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.	बनाम/ Vs.	M/s. Lodha Hi-Rise Builders Pvt. Ltd. 216, Shah and Nahar Industrial Road, Off. Dr. E. Moses Road, Worli Mumbai-400018.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCL2637A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

आयकर अपील सं/ I.T.A. No.3204/Mum/2017

(निर्धारण वर्ष / Assessment Year: 2007-08)

ACIT 5(2)(1), Room No. 571, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020..	बनाम/ Vs.	M/s. Neon Metals Impex Pvt. Ltd. Shop No. 9, 52/52A, Sindhi Lane Nanubhai Desai Road Mumbai-400004.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCN5724H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

आयकर अपील सं/ I.T.A. No.3237/Mum/2017
(निर्धारण वर्ष / Assessment Year: 2008-09)

ITO-4(1)(4), 6 th Floor, Room No.637-A, Aayakar Bhavan, Mumbai-400020.	बनाम/ Vs.	M/s. Creative Corrupack Pvt. Ltd. 65, Krishna Niwas, Kalbadevi Road, Mumbai-400002.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCC2374A		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

Revenue by:	Shri Manoj Kumar (DR)
Assessee by:	None

सुनवाई की तारीख / Date of Hearing: 03.08.2018
घोषणा की तारीख /Date of Pronouncement: 03.08.2018

PER BENCH:

The revenue has filed these appeals challenging the orders passed by Ld CIT(A) in the respective hands of the assessees and they relate to the assessment years mentioned in the caption against the name of each of the assessees. In all these appeals, the revenue is aggrieved by the decision of Ld CIT(A) in granting relief to the respective asesseees.

2. These appeals were heard ex-parte. We noticed that the quantum in dispute involved in these appeals is as given below and hence the tax effect involved therein is less than Rs.20.00 lakhs.

Sr.No	Name of Assessee	Quantum in Dispute	Penalty Amount
1	Jeevan Jyoti Builders & Developers	43,50,000/-	-
2	Lodha Hi Rise Builders P. Ltd.	-	1,10,240/-
3	Neon Metals Impex P. Ltd.	30,00,000/-	-
4	M/s. Creative Corrupack Pvt. Ltd.	55,00,000/-	-

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 provided 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. In the result, all the appeals of the revenue are dismissed.

Order pronounced in the open court on 03.08.2018.

Sd/-

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 03.08.2018.

Vijay

Sd/-

(B. R. BASKARAN)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Sr. Private Secretary
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai