

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, 'बी', मुंबई।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES, 'B' MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं
श्री राजेश कुमार, लेखा सदस्य, के समक्ष

**Before Shri Joginder Singh, Judicial Member, and
Shri Rajesh Kumar, Accountant Member**

**ITA No.1469/Mum/2014
Assessment Years: 2010-11**

Income Tax Officer- 13(2)(2), Room No.412, 4 th Floor, Aayakar Bhavan, M. K. Road, Mumbai-400020	बनाम/ Vs.	Shri Manoj Sitaram Gupta, 110, 1 st Flr. Arihant Mansion, Ahmedabad, St. Masjid (E), Mumbai-400009
(राजस्व /Revenue)		(निर्धारिती /Assessee)
PAN. No. AADPG1861G		

राजस्व की ओर से / Revenue by	Ms. Neha Thakur-DR
निर्धारिती की ओर से / Assessee by	NONE

सुनवाई की तारीख / Date of Hearing :	26/07/2018
आदेश की तारीख /Date of Order:	26/07/2018

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The Revenue is aggrieved by the impugned order dated 12/11/2013 of the Ld. First Appellate Authority, Mumbai, in deleting the addition on account of short term capital gains amounting to Rs.36,01,250/- instead of treating it as long term capital gain as offered by the assessee.

2. During hearing of this appeal, none was present for the assessee in spite of the fact that RPAD notice was issued to the assessee. It was pointed out that the tax effect in the present appeal is below prescribed monetary limit. The ld. DR, Ms. Neha Thakur, did not controvert that the tax effect is below prescribed limit on account of latest circular issued by CBDT.

2.1. We have considered the submissions of Ld. DR and perused the material available on record. In view of the above, it is noted that the tax effect in the present appeal is below prescribed limit of Rs.20 lakh, vide instruction/Circular No.3 of 2018, issued by CBDT (F No.279/Misc./142/ 2007-ITJ(PT) dated 11/07/2018. As

per the circular, wherein, the Department was advised/directed by the Board not to file appeal in the cases where the tax effect does not exceed the following monetary limit.:-

Sl. No.	Appeals in Income –tax matters	Monetary Limit (in Rs.)
1.	Before ITAT	20,00,000/-
2.	U/s 260 A before Hon'ble High Court	50,00,000/-
3.	Before Hon'ble Supreme Court	1,00,00,000/-

In view of the above instruction, since, the tax effect is less than Rs.20,00,000/- (not controverted by Ld. DR also), consequently, the appeal of the Revenue is not maintainable, therefore, dismissed.

This order was pronounced in the open court in the presence of the ld. DR at the conclusion of the hearing on 26/07/2018.

Sd/-

(Rajesh Kumar)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 26/07/2018

Shekhar, P.S./नि.स.

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

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai