

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "C", MUMBAI**

BEFORE SHRI B.R. BASKARAN (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No. 1516/MUM/2017
Assessment Year: 2010-11**

The ITO 32(2)(5), R. No. 307, 3 rd Floor, C-11, Pratakshyakar Bhavan, BKC Bandra, Mumbai - 400051	Vs.	M/s Prathmesh Realtors, A-101, Sweta Park, Daulat Nagar, Road No. 2, Borivali (East) Mumbai - 400066 PAN: AAIFP8580C
(Appellant)		(Respondent)

Revenue by : Shri Abi Rama Kartikiyen (DR)
Assessee by : None

Date of Hearing: 06/09/2018
Date of Pronouncement: 06/09/2018

ORDER

PER RAM LAL NEGI, JM

This appeal has been filed by the revenue against the order dated 08.12.2016 passed by the Commissioner of Income Tax (Appeals)-44 (for short 'the CIT(A), Mumbai, for the assessment year 2010-11, whereby the Ld. CIT(A) has allowed the appeal filed by the assessee against the penalty order passed by the u/s 271 (1)(c) of the Income Tax Act, 1961 (for short the 'Act').

2. Aggrieved by the order of Ld. CIT (Appeals), the revenue has preferred this appeal before the Tribunal on the following effective grounds:-

On the facts and in the circumstances of the case and in law, the Ld. CIT (A) erred in deleting the penalty u/s 271 (1)(c) levied on account of wrong claim of deduction u/s 80IB (10) of the I.T. Act. The Ld. CIT (A) also erred in relying on the decision in the case of Reliance Petroproducts Pvt.

Ltd. without appreciating the fact that the facts of the present case are different from the facts of that case.”

3. At the outset, the Ld. counsel for the respondent/assessee pointed out that the tax effect of the relief granted by the Ld. Commissioner of Income Tax (Appeals) is below Rs.20 lacs and as per the CBDT Circular No. 3/2018, F. No. 279/Misc.142/2007-ITJ (Pt) dated 11th July, 2018 issued by Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India limit fixed by the CBDT for filing the appeal before the ITAT is 20 lacs.

4. The Ld. Departmental Representative (DR) fairly conceded that this appeal is not maintainable in light of the above said CBDT Circular. The Ld. DR also did not point out that this appeal falls in any of the exceptions carved out in the above said circular.

5. We have gone through the order of the Ld. Commissioner of Income Tax (Appeals) and the grounds of appeals. We find that the tax effect in the above referred appeal is less than Rs. 20 lacs. Accordingly, we dismiss the aforesaid appeal filed by the Revenue.

In the result, the appeal by the Revenue is dismissed.

Order pronounced in the open court on 6th.September, 2018.

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

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 06/09/2018

Alindra, PS

आदेश 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//

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