

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BENGALURU**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
and
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.1648/Bang/2016
(Assessment year: 2008-09)

Income-tax Officer,
Ward-1,
Haveri.

... Appellant

Vs.

Shri C.K.Nandigonnannavar,
Prop. Sanjay Trading Co.
A/p: Guttal, Dist. Haveri.
PAN:ADMPN 3857 H

... Respondent

Appellant by : Shri Vikram Suryavamshi, ACIT(DR)
Respondent by : Shri Ravishankar, Advocate.

Date of hearing : 30/01/2019
Date of pronouncement: 30/01/2019

O R D E R

Per PAVAN KUMAR GADALE, JM :

The revenue has filed the appeal against the order of the learned CIT(A), Davangere, in ITA No.CIT(A)347/HBL/DVG/2010-11 dated 27/05/2016 for the assessment year 2008-09.

2. At the outset, it is observed that the tax effect involved in this appeal is below Rs.20 lakhs. The CBDT, with a view to reduce unnecessary litigation on their part, has issued a circular No.3/2018 dated 11th July 2018, wherein they have revised the monetary limits for filing of appeals by the Department before the Income Tax Appellate Tribunal, High Courts and Supreme Court. Insofar as the Tribunal is concerned, the monetary limit specified is Rs.20 lakhs. The CBDT specified that where the tax effect does not exceed the monetary limit

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specified therein, the concerned authority has to withdraw its appeal or it need not press the same. It is further specified that the tax effect indicated therein is applicable to all pending appeals, though they are filed by the Revenue prior to the issuance of the said circular. It was also clarified that the Assessing Officer has to calculate the tax effect separately for every assessment year in respect of the disputed issue/s in the case of every assessee. If, in the case of an assessee, the disputed issue arises in more than one year(s), appeal(s) can be filed in respect of such assessment year(s) in which tax effect in respect of the disputed issue exceeds the monetary limit specified. In other words, if there are a number of years, if the tax effect is less than the specified limit in one year, appeal cannot be filed or the same has to be withdrawn for that year, for want of tax effect. However, an exception is made to this direction with regard to a combined order passed by the first appellate authority. That is, if in one of the years the tax effect is more than Rs.20 lakhs and the Revenue decides to file an appeal, in respect of other years covered by the said order also, Revenue is eligible to file appeal, even though the tax effect in each of those years is less than Rs.20 lakhs. It was also clarified that merely because the appeal is dismissed for want of tax effect, it does not come in the way of the Department in filing appeal for other years(s), and it does not mean that the Department has acquiesced the issue.

3. The above circular was specifically made applicable to all pending appeals. In the present case, the tax effect on the addition in dispute, which was deleted by the CIT(A) by the impugned order is indisputably below 20 lakhs.

4. The Legislature in its wisdom has introduced section 268A of the Income Tax Act, 1961, whereby the Board is empowered to issue orders/instructions/directions to the income-tax authorities, fixing the monetary limits for the purpose of regulating the filing of appeals. In the light of the circular dated 11/07/2018, issued by the CBDT in exercise of the powers conferred in it by subsection (1) of section 268A, we are of the view that the appeal filed herein should not have been

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pressed by the Revenue. The Learned Departmental Representative fairly admitted that the Revenue effect in this appeal is less than the prescribed limit in para-3 of the above circular issued by the CBDT. Having regard to the circumstances of the case, we dismiss the appeals of the Revenue as withdrawn/not pressed, as pronounced in the open court.

5. However, the revenue is at liberty to move appropriate application/petition in case it is found that the case is covered by one of the exceptions carved out in the said Circular.

6. In the result, the revenue's appeal dismissed.

Order pronounced in the open court on 30th January, 2019.

Sd/-

(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Place : Bengaluru
Date : 30/01/2019.
srinivasulu, sps

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore