

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं  
एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND  
SHRI S JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1437/Chny/2018  
निर्धारण वर्ष /Assessment Year: 2013-14

The Dy. Commissioner of Income Tax,  
Corporate Circle-2(1),  
Chennai.

**Vs.** M/s. Enmas GB Power  
Systems Projects Ltd.,  
No.43, Guna Complex,  
Anna Salai, Teynampet,  
Chennai – 600 018.

[PAN: AAACE 1267G]

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by

: Mr. ARV Sreenivasan,  
JCIT, D.R

प्रत्यर्थी की ओर से /Respondent by

: Mr. N.Arjun Raj for S.Sridhar,  
Advocate

सुनवाई की तारीख/Date of Hearing

: 27.08.2019

घोषणा की तारीख /Date of Pronouncement

: 27.08.2019

**आदेश / O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

This is an appeal filed by the Revenue against the Order of the Commissioner of Income Tax (Appeals)-6, Chennai, in ITA No.142/C.I.T(A)-6/2016-17 dated 30.01.2018 for assessment year 2013-14.

2. Mr. ARV Sreenivasan, JCIT represented on behalf of the Revenue and Mr. N. Arjun Raj for S.Sridhar, Advocate represented on behalf of the assessee.

3. The learned Counsel for the Revenue and the Assessee fairly conceded before us that the tax effect involved in this appeal does not exceed Rs.50 /- lakhs.

4. Vide CBDT circular No.17/2019 in F.No.279/Misc.142/2007-ITJ(Pt) dated 8th August, 2019, the income tax department has further liberalized its policy for not filing appeals against the decisions of the appellate authorities in favour of the taxpayers, wherein tax involved is below certain threshold limits, and announced its policy decision not to file, or press, the appeals, before this Tribunal, against the appellate orders favourable to the assessee in the cases in which overall tax effect, excluding interest except when interest itself is in dispute, is Rs 50,00,000/- or less.

5. In view of the above factual background and the concession by this CBDT circular, this appeal filed by the Revenue must be dismissed as withdrawn.

6. This circular, only enhances the monetary limits and gives further relaxation. The old circular, beyond any dispute or controversy,

categorically applied to the pending appeals as on the date of issuance of circular.

7. The circular dated 8th August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular No. 3/2018 (and subsequent amendment thereto), and all it does is to replace paragraph nos. 3 and 5 of the said circular. This is evident from the following extracts from the circular dated 8<sup>th</sup> August 2019:

*"2. As a step towards further management of litigation. it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:*

Sl. No	Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.)
1	Before Appellate Tribunal	50,00,000
2	Before High Court	1,00,00,000
3	Before Supreme Court	2,00,00,000

*3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:*

*"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para-3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year no appeal shall be filed in respect of an assessment year or years*

*in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgement involves more than one assessee, each assessee shall be dealt with separately”*

*4. The said modifications shall come into effect from the date of issue of this Circular.”*

8. Clearly, all other portions of the circular no. 3 of 2018 (supra) have remained intact. The portion which has remained intact includes paragraph 13 of the aforesaid circular which is as follows:

*“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.”*

9. The Hon’ble Supreme Court in the case of The Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., in SLP No.21497/2019 dated 16.08.2019 reported in 2019(8)TMI 811(SC) has also applied the Circular No.17/2019 dated 08.08.2019 has dismissed the appeal holding as follows:

*“Since the tax effect involved in the matter is less than Rs.2/- crores, going by the latest circular issued by the CBDT, we see no reason to interfere in this matter. The Special Leave Petition is dismissed, leaving all the questions of law open”.*

10. Learned Commissioner (DR) submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeal and restoration of the appeal in the case (i) in which it can be demonstrated that the appeals are covered by the exceptions, and (ii) which are inadvertently included in this bunch of appeals, wherein the tax effect, in terms of the CBDT circular (supra), exceeds Rs 50,00,000.

None opposes this prayer; we accept the same. We make it clear that the appellants shall be at liberty to point out the case which is wrongly included in the appeal so summarily dismissed, either owing to wrong computation of tax effect or owing to such cases being covered by the permissible exceptions- or for any other reason, and we will take appropriate remedial steps in this regard.

11. In the circumstances, respectfully following the principles laid down by the Hon"ble Supreme Court in the case of the Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., referred to supra and in the light of the above discussions, the appeal filed by the Revenue is found to be non-maintainable.

12. In the result, the appeal of Revenue stands dismissed as withdrawn.

Order pronounced in the open Court after conclusion of hearing on the 27<sup>th</sup> August, 2019 in Chennai.

Sd/-

(एस जयरामन)

**(S. JAYARAMAN)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 27<sup>th</sup> August, 2019.

EDN, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

Sd/-

(जॉर्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF