

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI MAHAVIR SINGH (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 3863/MUM/2017
Assessment Year: 2008-09**

DCIT CC 7(3), Room No.
655, Aayakar Bhavan,
Mumbai-400020.

Vs. Smt. Bhagwanti R Vanigota, 1602,
Sumer Towers, Mazgaon, Mumbai-
400010.

Appellant

**PAN No. AACPV1933F
Respondent**

Revenue by : Mr. G.L.V. Prasad &
Mr. Rajeev Gubgotra, DRs
Assessee by : Mr. Neelkanth Khandelwal, AR

Date of Hearing : 23/08/2019
Date of pronouncement : 28/08/2019

ORDER

PER N.K. PRADHAN, A.M.

This is an appeal filed by the Revenue. The relevant assessment year is 2008-09. The appeal is directed against the order of the Commissioner of Income Tax-48, Mumbai [in short 'CIT(A)'] and arises out of the assessment completed u/s 153A r.w.s. 153C/143(3) of the Income Tax Act 1961, (the 'Act').

2. Central Board of Direct Taxes (CBDT) *vide* Circular No. 17/2019 dated 08.08.2019 has amended Circular No. 3/2018 dated 11.07.2018 for further enhancement of monetary limit for filing of appeals by the

Department before the ITAT, High Courts and SLPs/Appeals before Supreme Court as measures for reducing litigation.

3. CBDT *vide* Circular No. 3/2018 dated 11.07.2018 has specified that appeals shall not be filed before the Income Tax Appellate Tribunal (ITAT) in cases where the tax effect does not exceed the monetary limit of Rs.20,00,000/-. For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of issues against which appeal is intended to be filed. Further, 'tax effect' shall be taxes including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty order, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.

At para 13 of the above Circular, it has been mentioned that:

"13. This Circular will apply to SLPs/appeals/cross objection/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."

4. As a step towards further management of litigation, CBDT *vide* Circular No. 17/2019 has fixed the monetary limit for filing of appeals before ITAT at Rs.50,00,000/-.

5. In the instant appeal filed by the Department the amount in dispute is Rs.66,65,580/- and the tax effect is below the monetary limit of Rs.50,00,000/-.

6. Before us, the Ld. DR submits that liberty may kindly be given to raise, after necessary further verification, and to seek recall the dismissal of appeal and restoration of the appeal in case it can be shown that the appeal is covered by the exceptions.

7. We agree with the above contentions of the Ld. DR and make it clear that the appellant shall be at liberty to point out the exceptions and we will take appropriate remedial measures in this regard.

8. With the above observations, this appeal involving tax effect of less than Rs.50,00,000/- is dismissed as withdrawn.

Order pronounced in the open Court on 28/08/2019.

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 28/08/2019

Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Sr. Private Secretary)
ITAT, Mumbai