

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.770/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

The Income Tax Officer,
Ward – 2(2), Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

Shri Pundlik Baburao Murkute,
House No. 43, Banergaon,
Near Maruti Temple,
Baner, Pune – 411045

PAN : AVZPM7775N

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.1856/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

Shri Pundlik Baburao Murkute,
House No. 43, Banergaon,
Near Maruti Temple,
Baner, Pune – 411045

PAN : AVZPM7775N

.....अपीलार्थी / Appellant

बनाम / V/s.

Assistant Commissioner of Income Tax,
Circle – 4, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Chandrasekhar L.S.
Revenue by : Ms. Shabana Parveen

सुनवाई की तारीख / Date of Hearing : 27-08-2019

घोषणा की तारीख / Date of Pronouncement : 27-08-2019

आदेश / ORDER**PER VIKAS AWASTHY, JM :**

These cross appeals by the assessee and the Revenue are against the order of Commissioner of Income Tax (Appeals)-3, Pune dated 21-11-2016 for the assessment year 2009-10.

2. Shri Chandrasekhar L.S. appearing on behalf of the assessee submitted at the outset that the appeal of Revenue is liable to be dismissed on account of low tax effect in terms of recent CBDT Circular No. 17/2019, dated 08-08-2019. The ld. AR of the assessee furnished calculation of tax effect involved in the appeal as Rs.33,78,513/-, including Surcharge and Education Cess. Thus, the tax effect on the addition is less than Rs.50 Lakhs.

3. The ld. AR further submitted that the assessee does not wish to pursue the appeal and hence, may be permitted to withdraw the same.

4. Ms. Shabana Parveen representing the Department fairly admitted that in the present appeal by the Department tax effect is less than Rs.50 Lakhs. The ld. DR further submitted that the Department has no objection if the assessee wishes to withdraw his appeal.

5. Both sides heard. The Revenue is in appeal against the order of Commissioner of Income Tax (Appeal) in allowing the benefit of deduction u/s. 54B of the Act to the assessee. Undisputedly, the tax effect involved

in appeal is less than the monetary limit prescribed by the recent CBDT Circular No. 17/2019, dated 08-08-2019 for filing of appeals before the Tribunal by the Department. The CBDT vide circular dated 08-08-2019 (supra) has amended Para 3 of Circular No. 3 of 2018 dated 11-07-2018 thereby enhancing monetary limit of tax effect from Rs.20 Lakhs to Rs.50 Lakhs for filing of appeals by the Department before the Tribunal. Thus, without going into merit of the issues raised in the appeal, in view of the CBDT Circular (supra) the present appeal of the Revenue is dismissed on account of low tax effect.

6. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for restoration of appeal, with the requisite material to show that the appeal is protected by the exceptions prescribed in Para 10 of the Circular dated 11-07-2018 and its amendment dated 20-08-2018.

7. The assessee furnished a note giving calculations of tax effect involved in the appeal by the Revenue. In the same note, it is also mentioned that the assessee wishes to withdraw the appeal. The relevant extract of the same is reproduced as under :

“Appeal No. 1856/PN/2017

This is an appeal preferred by the appellant assessee for the same assessment year and the appellant assessee would like not to press the grounds of appeal raised and would like to withdraw the appeal.”

8. Thus, in view of the statement made by ld. AR, the appeal of assessee is dismissed as withdrawn.

9. In the result, the appeal of assessee and Revenue are dismissed.

Order pronounced in the open court at the time of hearing on Tuesday, the 27th day of August, 2019.

Sd/-	Sd/-
(डी. करुणाकरा राव/D. Karunakara Rao)	(विकास अवस्थी / Vikas Awasthy)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 27th August, 2019
RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(Appeals)-3, Pune.
4. The Pr. Commissioner of Income Tax-2, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति // True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune