

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND**  
**SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

| Sl. No. | ITA No.                 | Assessment year | Appellant   | Respondent   |
|---------|-------------------------|-----------------|---|--|
| 1       | <b>01/chny/2016</b>     | 2010-11         | ACIT, Non Corp Circle-(3), Chennai                      | <b>M/s.GEM Granites,</b><br>78 Catheral Road,<br>Gopalapuram,Chennai-86.<br><b>PAN AAAG 2370 F</b>                                     |
| 2.      | <b>849/chny/2019</b>    | 2013-14         | ACIT, Corp Circle-(2), Coimbatore.                      | <b>M/s.Elgi Rubber Co. Ltd.,</b><br>2000,Trichy Road,Coimbatore-5.<br><b>PAN AABCE 9596 M</b>  |
| 3       | <b>2539 /chny/18</b>    | 2009-10         | DCIT(Exemptions),<br>Chennai Circle,<br>Chennai-34.     | <b>M/s.SAE India,</b><br>1/117,Cee bros Arcade,<br>II floor,III cross, Kasturba<br>Nagar, Adyar,Chennai-20.<br><b>PAN AADTS 3913 K</b> |
| 4       | <b>2540/chny/18</b>     | 2010-11         |   |  |
| 5       | <b>2541/chny/18</b>     | 2011-12         |   |  |
| 6       | <b>2542/chny/18</b>     | 2012-13         |   |  |
| 7       | <b>3155/chny/2017</b>   | 2013-14         | ACIT,Circle-I,Williams<br>Road,Cantonment,<br>Trichy-1. | <b>M/s.Dalmia Bharat Ltd.,</b><br>Dalmiapuram,<br>Trichy 621 651.<br><br><b>PAN AAJCS 7366 K</b>                                       |
| 8       | <b>597/chny/2018</b>    | 2012-13         |   |  |
| 9       | <b>1306/Chny/2018</b>   | 2011-12         |   |  |
| 10      | <b>C.O.56/chny/2019</b> | 2012-13         |   |  |
| 11      | <b>CO 58/chny/2019</b>  | 2011-12         |   |  |

अपीलार्थी की ओर से/ Appellant by : Mr.Saiendra Mamidi,PCIT,D.R

प्रत्यर्थी की ओर से /Respondent by :

| Sl.No. as mentioned in cause | Title                     |
|------------------------------|---------------------------|
| Sl.No.                       | Name of Counsel           |
| 1                            | Mr.Philip George,Advocate |
| 2                            | Mr.Philip George,Advocate |
| 3 to 6                       | Mr.S.Sridhar,Advocate     |
| 7 to 11                      | Mr.Navin Verma, C.A       |

सुनवाई की तारीख/Date of Hearing : 05-09-2019

घोषणा की तारीख /Date of Pronouncement : 05-09-2019

आदेश / **O R D E R**

**PER BENCH:**

These Eleven appeals and Cross Objections pertain to the appeals are filed by various Assessing Officers, all these appeals call into question correctness of the relief granted to the taxpayers by the Commissioners of Income Tax (Appeals) and, most importantly, the tax effect involved in all these appeals does not exceed Rs.50,00,000/- in each of these appeals. The cross objections taken up for hearing are only such cross objections as emanate from these appeals and are broadly in support of the orders passed by the Commissioner (Appeals).

2. 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.

3. In view of the above factual background and the concession by this CBDT circular, all these appeals must be dismissed as withdrawn and the related cross objections must be dismissed as infructuous.

4. 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.

5. 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 8th 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:

| S.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."

6. 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."*

7. 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”.*

8. Learned Commissioner (DR) submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeals and restoration of the appeals in the cases (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 cases which are wrongly included in the appeals 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.

9. In the circumstances, respectfully following the principles laid down by the Hon<sup>ble</sup> Supreme Court in the case of Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., referred to supra and in the light of the above discussions, all the appeals filed by the Revenue are found to be non-maintainable, and as all the related cross-objections of the

assessee arise only as a result of those appeals and merely support the order of the CIT(A), the cross objections filed by the assessee are also dismissed as infructuous.

10. In the result, all the appeals filed by the Revenue are dismissed as withdrawn and the Cross-objections are dismissed as infructuous.

Pronounced in the open court after conclusion of hearing on 05<sup>th</sup> September, 2019.

Sd/-

(इंटूरी रामा राव)

**(INTURI RAMA RAO)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 05<sup>th</sup> September, 2019.

K S Sundaram

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF