

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"D" Bench, Mumbai**

**Before Justice P.P. Bhatt, President  
and Shri G.S. Pannu, Vice President**

**ITA No. 2043/Mum/2018**  
(Assessment Year: 2012-13)

Income Tax Officer 25(3)(1),  
Room No. 603, 6th Floor,  
Pratyakshakar Bhavan,  
BKC, Bandra (E)  
Mumbai 400 056

M M Corporation,  
402/B, Bajaj View, Bajaj Road,  
VS. Vile Parle (West)  
Mumbai 400 056

AAAFM1898E

**Appellant**

**Respondent**

Appellant by: Shri Chaitanya Anjaria  
Respondent by: Shri B.V. Jhaveri

Date of Hearing: 20.08.2019  
Date of Pronouncement: 20.08.2019

**ORDER**

The captioned appeal filed by the Revenue pertaining to A.Y. 2012-13 is directed against the order passed by the CIT(A)-37, Mumbai dated 04.01.2018 which in turn arises out of an order passed by the Assessing Officer under Section 143(3)/147 of the Income Tax Act, 1961 (hereinafter "the Act") dated 22.03.2016.

2. The CBDT, vide Circular No. 17/2019 dated 8<sup>th</sup> August, 2019, has amended para 3 of Circular No. 3/2018 dated 11.07.2018 modifying the monetary limits for filing of appeals by the Department before the Tribunal. The tax effect in dispute in the captioned appeal is stated to be below the enhanced monetary limit of ₹50 lakhs specified in the CBDT Circular dated 08.08.2019 (supra) read with circular 11.07.2018 (supra).

3. In this background, the learned D.R. appearing for the Revenue was required to state his position; he has not referred to any material which

would show that the captioned appeal is protected by any of the exceptions provided in para 10 of the CBDT circular dated 11.07.2018 (supra) and its amendment dated 20<sup>th</sup> August, 2018.

4. Without going into the merit of the issues raised, the captioned appeal is deemed to be withdrawn/not pressed as it's filing is not in consonance with the CBDT circular dated 08.08.2019 (supra) read with circular 11.07.2018 (supra). It is also noted that the Hon'ble Supreme Court in the case of DCIT & Ors vs. MSEB Holding Company Ltd. [SLP (Civil) No.26373/2019 dated 16.08.2019] has taken cognizance of the enhanced limit while dismissing the SLP arising from the judgement passed by the Hon'ble Bombay High Court in WP No. 3642/2018 dated 25.01.2019.

5. Before parting, we clarify that if on a later date, the Revenue finds that filing of the appeal is protected by any of the exceptions provided in para 10 of the CBDT circular 11.07.2018 (supra), it shall be at liberty to approach the Tribunal for recall of the instant order and reinstatement of the appeal for adjudication on merits. The Tribunal shall consider such application, if any, as per the extant law.

6. In conclusion, by applying the circular dated 08.08.2019 read with circular dated 11.07.2018 (supra), the captioned appeal of the Revenue is dismissed as withdrawn/ not pressed.

Above decision was pronounced in the open court at the conclusion of hearing on 20<sup>th</sup> August, 2019.

Sd/-  
**G.S. Pannu**  
**Vice President**

Sd/-  
**Justice P.P. Bhatt**  
**President**

Mumbai, Dated: 20<sup>th</sup> August, 2019

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) concerned*
4. *The CIT - concerned*
5. *The DR, "D" Bench, ITAT, Mumbai*

*By Order*

//True Copy//

*Assistant Registrar  
ITAT, Mumbai Benches, Mumbai*

n.p.