

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

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

ITA No. 243/Mum/2019
(Assessment Year: 2009-10)

A C I T - 21(1)
Room No. 116, 1st Floor
Piramal Chambers
Parel, Mumbai 400012

Ms. Chaitanya S. Joshi
5B, 5th Floor, Hingiri Apt.
VS. 1277, Hatiskar Marg
Prabhadevi, Mumbai 400025

AABPJ0212G

Appellant

Respondent

Appellant by: Shri Chaitanya Anjaria
Respondent by: None

Date of Hearing: 20.08.2019
Date of Pronouncement: 20.08.2019

ORDER

The captioned appeal filed by the Revenue pertaining to A.Y. 2009-10 is directed against the order passed by the CIT(A)-2, Mumbai dated 30.10.2018 which in turn arises out of an order passed by the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 (hereinafter "the Act") dated 27.12.2016.

2. The CBDT, vide Circular No. 17/2019 dated 8th August, 2019, has amended para 3 of Circular No. 3/2018 dated 11.07.018 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 20th 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 Without going into the merit of the issues raised, the captioned appeal is deemed to be withdrawn/not pressed as it's filing is not in consonance with the CBDT circular dated 08.08.2019 (supra) read with circular 11.07.2018 (supra).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 20th August, 2019.

Sd/
G.S. Pannu
Vice President

Sd/-
Justice P.P. Bhatt
President

Mumbai, Dated: 20th August, 2019

Copy to:

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

By Order

//True Copy//

*Assistant Registrar
ITAT, Mumbai Benches, Mumbai*

n.p.