

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

**BEFORE SHRI M.BALAGANESH (ACCOUNTANT MEMBER) AND
SHRI RAVISH SOOD (JUDICIAL MEMBER)**

**ITA No. 3803/MUM/2017
(Assessment Year: 2012-13)**

ACIT-32(3)
R. No. 108, 1st Floor, C-11,
Pratakshyakar Bhavan,
BKC, Bandra,
Mumbai – 400 051

Vs. Times Construction Co.
E-121, Earth Residency
Deep Narayan Dubey Road,
Dahisar (E)
Mumbai – 400068

PAN No. AAFT3644F

Appellant

Respondent

Revenue by : Mr. Ritesh Misra, D.R
Assessee by : Mr. Anant Pai, A.R

Date of Hearing : 11/09/2019
Date of pronouncement : 11/09/2019

ORDER

PER RAVISH SOOD, JM

This is an appeal filed by the Revenue. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-44, Mumbai [in short 'CIT(A)'] and arises out of the assessment order under section 143(3) r.w.s. 147 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 tax effect involved is below the monetary limit of Rs.50,00,000/-. The same was brought to the notice of the Ld. Departmental Representative (DR) and the Ld. counsel for the assessee.

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 11/09/2019.

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Mumbai;
Dated: 11/09/2019
Rohit, 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