

आयकर अपीलीय अधिकरण "B" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री श्री एम बालगणेश, लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JM AND SRI M BALAGANESH, AM

आयकर अपील सं./ ITA No. 5475/Mum/2015

(निर्धारण वर्ष / Assessment Years 2011-12)

The Income-Tax Officer, Ward 18(2)(3) 306, 3th Floor, Earnest House, Nariman Point, Mumbai-400 021	बनाम/ Vs.	Shri Manilal K Thakur Office no-8, Grd. Floor, 1 45 Dady Sheth Agairy lane, Shiv Niwas, Mumbai-400 002
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./ PAN No. AEFPT5609B		

अपीलार्थी की ओर से / Appellant by	:	Ms. N Hemalatha, DR
प्रत्यर्थी की ओर से / Respondent by	:	Shri Piyush Chaturvedi, AR

सुनवाई की तारीख / Date of hearing:	21.08.2019
घोषणा की तारीख / Date of pronouncement :	21.08.2019

आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/
PER MAHAVIR SINGH, JM:

This appeal of Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-29, Mumbai, [in short CIT(A)], in ITA No. CIT(A)-29/IT-56/ITO.18(2)(3)/14-15 dated 04.09.2015. The Assessment was framed by the Income Tax Officer, Ward-15(3)(4),



Mumbai (in short ITO/ AO) for the A.Y. 2011-12 vide order dated 25.03.2014, under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that the AO made addition of income on account of undisclosed sources amounting to ₹ 70,01,618/-. Aggrieved, assessee preferred the appeal before CIT(A), who deleted the same as unjustifiable. Now, aggrieved Revenue is in appeal before Tribunal. The learned Counsel for the assessee stated that the tax effect in this appeal, which is below the low tax effect as prescribed vide CBDT Circular No. 17/2019 vide F.No. 279/Misc.142/2007-ITJ(Pt.) dated 08.08.2019, wherein the monetary limit for filing of appeal before ITAT is enhanced to ₹ 50 lacs. We noted that vide this circular No. 17/2019 dated 08.08.2019 a amendment was made to CBDT Circular No. 3/2018 dated 11.07.2018 vide F.No. 279/Misc. 142/2007-ITJ (Pt) increasing the monetary limit for filing of appeal before Income Tax Appellate Tribunal i.e. ₹ 50 lacs in each of the case from the monetary limit of ₹ 20 lacs. We noted that earlier Circular No. 3 of 2018 was made applicable to pending appeals also and this clause of the circular remains unchanged even after the amendment. Admittedly, in this case tax effect is below prescribed limit for filing of appeal before the Tribunal by the Revenue i.e. ₹ 50 lacs.

3. When this was confronted to the learned Sr. Departmental Representative, he could not point out that this appeal falls under any of the exception as provided in Circular No. 3 of 2018, which are applicable to the present circular no. 17/2019. Now, before us, the learned CIT Departmental Representative only requested that he want to verify whether this appeal falls under any of the exception as provided in CBDT Circular No. 3/2018. Here, we are giving liberty to Revenue, that in case,



after passing the order, it comes to the notice of the Revenue that this appeal does falls under any exception of the CBDT Circular No. 3/18, the AO can move for recalling of the order within the prescribed time limit under section 254(2) of the Act. Admittedly, the tax effect in this appeal of Revenue is much below the prescribed limit of filing appeal before the Tribunal i.e. ₹ 50 lacs as per CBDT circular No. 17 of 2019. In view of the above, this appeal of Revenue is dismissed as withdrawn in view of Circular No. 17 of 2019.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 21.08.2019.

Sd/-

(एम बालगणेश / M BALAGANESH)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 21.08.2019

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai