

आयकर अपीलीय अधिकरण "E" न्यायपीठ मुंबई में।

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

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री राजेश कुमार लेखा सदस्य के समक्ष।

BEFORE SRI MAHAVIR SINGH, JM AND SRI RAJESH KUMAR, AM

आयकर अपील सं./ ITA No. 1492/Mum/2018

(निर्धारण वर्ष / Assessment Year 2013-14)

The Joint Commissioner of Income Tax (OSD)
Circle-8(3)(1), Dy. CIT, Circle, 6th Floor,
6th Floor, Room No. 615, Aayakar Bhavan,
M.K. Road, Churchgate, Mumbai-400 020

..... Applicant

PAN – AABCI7118M

v/s

Tata Power Renewable Energy Ltd.
5th Floor, Corporate Centre,
Bloc "B" Carnac bundar, Mumbai-400 009

.....Respondent

अपीलार्थी की ओर से / Appellant by	:	Shri Rajesh Kumar Mishra, DR
प्रत्यर्थी की ओर से / Respondent by	:	Shri Milin Thakore, AR

सुनवाई की तारीख / Date of hearing:	28.08.2019
घोषणा की तारीख / Date of pronouncement :	28.08.2019

आदेश / ORDER

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

This appeal of the Revenue is arising out of the order of Commissioner of Income Tax (Appeals)-14, Mumbai in Appeal No. CIT(A)-14/IT-174/16-17 dated 12.12.2017. The Assessment was framed by the Dy. Commissioner of Income Tax-Circle 8(3)(1), Mumbai (in short



DCIT/ITO/ AO) for AY 2013-14 vide dated 30.03.2016, under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. This appeal contains the quantum addition of ₹ 1,04,82,619/- which is in dispute before the Department stated by the learned Counsel . The learned Counsel for the assessee stated that the tax effect of this addition is ₹ 34,01,086/-, 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 Revenue is dismissed as withdrawn.

Order pronounced in the open court on 28.08.2019.

Sd/-

(राजेश कुमार / RAJESH KUMAR)

(लेखा सदस्य / ACCOUNTANT MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 28.08.2019

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

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

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