

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER**

ITA No. 4824/MUM/2017 (A.Y: 2012-13)

DCIT Central Circle – 7(3) R.No. 656, 6 th Floor Aayakar Bhavan, M.K. Road Mumbai – 400 020	v.	M/s. National Standard India Ltd. 216, Shah and Nahar Industrial Road Off. Dr. E. Moses Road, Worli Mumbai – 400 018 PAN No: AAACN9808L
(Appellant)		(Respondent)

Assessee by : **Shri Aarti Sathe**
Department by : **Shri Chaitanya Anjaria**
Date of hearing : **09.08.2019**
Date of pronouncement : **24.09.2019**

ORDER

PER C.N. PRASAD (JM)

This appeal is filed by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)-49, Mumbai [hereinafter in short "Ld.CIT(A)"] in Appeal No. CIT(A)-49/IT-76/2015-16 dated 26.04.2017 for the Assessment Year 2012-13.

2. The Revenue has raised the following grounds in its appeal: -

1(a). *"On the facts and circumstances of the case and in law, the Ld CIT(A) erred in deleting the disallowance of ₹.1,30,80,781/- made*

by the Assessing Officer on the ground that the payment of the said amount to the customers/buyers in the cancelled project was justified by commercial expediency and was laid out wholly and exclusively for the purposes of the business of the assessee."

1 (b). "On the facts and circumstances of the case and in law, the Ld CIT(A) failed to appreciate that the agreement with the customers/buyers in the cancelled project did not stipulate any payment of compensation."

1 (c) " On the facts and in the circumstances of the case and in law, the Ld.CIT(A) failed to appreciate that the assessee had cancelled the project 'Lodha Excellencia' and decided to come up with a new project by utilizing more FSI and increasing the saleable area and on that account the payment of compensation of Rs. 1,30,80,781/-could best be termed as capital outlay for a new project and hence, disallowable as revenue expenditure."

3. At the time of hearing, Authorized Representative of the assessee submitted that tax effect on the issue in the present appeal is ₹.40,41,961/- which is below ₹.50 Lacs and in view of the CBDT Circular No. 17/2019 dated 08.08.2019 in F.No.279/Misc.142/2007-ITJ (Pt), the appeal of the Revenue is not maintainable.

4. Departmental Representative also agreed with the above submission of the Authorized Representative of the assessee.

5. We have heard the submissions and perused the grounds of appeal in this appeal. We find that the tax effect in this appeal is less than ₹.50 Lakhs and therefore the appeal of the Revenue is not maintainable

on account of low tax effect in view of the CBDT Circular No. 17/2019 dated 08.08.2019. Hence this appeal is dismissed.

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

Order Pronounced in the Open Court on the 24th September, 2019.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER
Mumbai / Dated 24/09/2019
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mum