

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH: CHENNAI**

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.203 &1152/Chny/2018  
निर्धारण वर्ष /Assessment Years: 2008-09 & 2010-11

The Asst. Commissioner of-  
Income Tax,  
Central Circle-1,  
Madurai.

(अपीलार्थी/Appellant)

Department by  
Assessee by

**Vs.** Shri M. Sivaramakrishnan,  
No.35, DSP Nagar,  
Bye Pass Road,  
Madurai-625 016.

**[PAN: APHPS 4008 Q]**

(प्रत्यर्थी/Respondent)

: Mr.K.G.Arun Raj, JCIT  
: None

आयकर अपील सं./ITA No.1872/Chny/2018  
निर्धारण वर्ष /Assessment Year: 2013-14

The Dy. Commissioner of-  
Income Tax,  
Corporate Circle-1,  
63-a, Race Course Road,  
Coimbatore.

(अपीलार्थी/Appellant)

Department by  
Assessee by

**Vs.** M/s.Bakgiyam Engineering-  
P. Ltd., (formerly known  
as M/s.Praveen Foundry  
P. Ltd.),  
24, Tex Park Road, 2<sup>nd</sup> Floor,  
Nehru Nagar West, Kalapatty  
Road, Civil Aerodrome (PO),  
Coimbatore-641 014.

**[PAN: AADCP 5269 L]**

(प्रत्यर्थी/Respondent)

: Mr.K.G.Arun Raj, JCIT  
: None

आयकर अपील सं./ITA No.440/Chny/2019  
निर्धारण वर्ष /Assessment Year: 2013-14

The Dy. Commissioner of-  
Income Tax,  
Central Circle-2,  
Madurai.

**Vs.** M/s.Appu Traders,  
No.XI/118C, M.Pudur,  
Main Road,  
Govindapuram Post,  
Palakkad-678 507.

(अपीलार्थी/**Appellant**)

**[PAN: AATFA 7119 H]**  
(प्रत्यर्थी/**Respondent**)

Department by  
Assessee by

: Mr.K.G.Arun Raj, JCIT  
: Mr.R.K.V.Sundar, Adv.

आयकर अपील सं./ITA No.443/Chny/2019  
निर्धारण वर्ष /Assessment Year: 2013-14

The Dy. Commissioner of-  
Income Tax,  
Central Circle-2,  
Madurai.

**Vs.** Smt. J.S.Nihar Banu,  
Prof. Alfas Traders,  
No.377/465, M.Pudur,  
Main Road,  
Govindapuram Post,  
Palakkad-678 507.

(अपीलार्थी/**Appellant**)

**[PAN: AGIPN 8752 E]**  
(प्रत्यर्थी/**Respondent**)

Department by  
Assessee by

: Mr.K.G.Arun Raj, JCIT  
: Mr.R.K.V.Sundar, Adv.

आयकर अपील सं./ITA Nos.897 & 898/Chny/2019  
निर्धारण वर्ष /Assessment Years: 2012-13 & 2014-15

The Asst. Commissioner of-  
Income Tax,  
Circle-1,  
Trichy.

**Vs.** M/s.Jennys Hotel (P) Ltd.,  
No.3/14, MC Donalds Road,  
Cantonment, Trichy.

(अपीलार्थी/**Appellant**)

**[PAN: AABCJ 1281 C]**  
(प्रत्यर्थी/**Respondent**)

Department by  
Assessee by

: Mr.K.G.Arun Raj, JCIT  
: Mr.N.Vijay Kumar, CA

आयकर अपील सं./ITA No.1624/Chny/2019

निर्धारण वर्ष /Assessment Year: 2015-16

The Income Tax Officer,  
Non-Corporate Ward-2(4),  
Chennai.

**Vs.** M/s. Shri Kaveri Commercial-  
Corporation,  
No.4, Mookambika  
Complex,Lady Desika Road,  
Mylapore, Chennai.

(अपीलार्थी/**Appellant**)

**[PAN: AAAFK 7239 H]**  
(प्रत्यर्थी/**Respondent**)

Department by	:	Mr.K.G.Arun Raj, JCIT
Assessee by	:	None
सुनवाई की तारीख/Date of Hearing	:	27.09.2019
घोषणा की तारीख /Date of Pronouncement	:	27.09.2019

**आदेश / O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The above appeals filed by the appellant Assessing Officer, call into question the correctness of the relief granted to the respondent assesseees by the Commissioner of Income Tax (Appeals) concerned and, most importantly, the tax effect involved in each of these appeals does not exceed Rs.50,00,000/-.

2. ITA Nos.203 & 1152/Chny/2018 are the appeals filed by the Revenue with delay of '38' days, for which, the Revenue has filed Affidavit for condonation of the delay, to which, the Id.Counsel for the assessee has not raised any serious objection. Consequently, the delay of '38' days in filing of the appeals stand condoned and the appeals are disposed off on

merits. ITA No.440/Chny2019 is the appeal filed by the Revenue with delay of '04' days, for which, the Revenue has filed Affidavit for condonation of the delay, to which, the Id.AR has not raised any objection and hence, the delay in filing of the appeal stands condoned and the appeal is disposed off on merits. ITA No.443/Chny2019 is the appeal filed by the Revenue with delay of by '04' days, for which, the Revenue has filed Affidavit for condonation of the delay, to which, the Id.AR has not raised any objection and hence, the delay in filing of the appeal stands condoned and the appeal is disposed off on merits.

**3.** Vide CBDT circular No.17/2019 in F.No.279/Misc.142/2007-ITJ(Pt) dated 8<sup>th</sup> August, 2019, the income tax department has further liberalized its policy for not filing appeals against the decisions of the appellate authorities in favour of the taxpayers, wherein tax involved is below certain threshold limits, and announced its policy decision not to file, or press, the appeals, before this Tribunal, against the appellate orders favourable to the assessee in the cases in which overall tax effect, excluding interest except when interest itself is in dispute, is Rs.50,00,000/- or less.

**4.** In view of the above factual background and the concession by this CBDT circular, all these appeals must be dismissed as withdrawn.

**5.** This circular, only enhances the monetary limits and gives further relaxation. The old circular, beyond any dispute or controversy,

categorically applied to the pending appeals as on the date of issuance of circular.

**6.** The circular dated 8<sup>th</sup> August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular No.3/2018 (and subsequent amendment thereto), and all it does is to replace paragraph nos.3 and 5 of the said Circular. This is evident from the following extracts from the circular dated 8<sup>th</sup> August 2019:

*"2. As a step towards further management of litigation. it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:*

<i>Sl.No.</i>	<i>Appeals/SLPs in Income-tax matters</i>	<i>Monetary limits (Rs.)</i>
<i>1</i>	<i>Before Appellate Tribunal</i>	<i>50,00,000</i>
<i>2</i>	<i>Before High Court</i>	<i>1,00,00,000</i>
<i>3</i>	<i>Before Supreme Court</i>	<i>2,00,00,000</i>

*3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:*

*"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para-3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgement involves more than one assessee, each assessee shall be dealt with separately"*

*4. The said modifications shall come into effect from the date of issue of this Circular."*

**7.** Clearly, all other portions of the circular no.3 of 2018 (supra) have remained intact. The portion which has remained intact includes paragraph 13 of the aforesaid Circular which is as follows:

*"13. This Circular will apply to SLPs/ appeals/ cross objections/ 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."*

**8.** The Hon'ble Supreme Court in the case of the Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., in SLP No.21497/2019 dated 16.08.2019 reported in 2019 (8) TMI 811 (SC) has also applied the Circular No.17/2019 dated 08.08.2019 has dismissed the appeal holding as follows:

*"Since the tax effect involved in the matter is less than Rs.2/- crores, going by the latest circular issued by the CBDT, we see no reason to interfere in this matter. The Special Leave Petition is dismissed, leaving all the questions of law open".*

**9.** The Ld.DR submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeals and restoration of the appeals in the cases (i) in which it can be demonstrated that the appeals are covered by the exceptions, and (ii) which are inadvertently included in this bunch of appeals, wherein the tax effect, in terms of the CBDT Circular (supra), exceeds Rs.50,00,000/-. None opposes this prayer; we accept the same. We make it clear that the appellants shall also be at liberty to point out the cases which are wrongly included in the appeals so summarily dismissed, either owing to wrong computation of tax effect or owing to such cases being covered by the permissible exceptions or for any other reason, and we will take appropriate remedial steps in this regard.

**10.** In the circumstances, respectfully following the principles laid down by the Hon'ble Supreme Court in the case of Commissioner of Income Tax-5, New Delhi Vs. Keshav Power Ltd., referred to supra and in the light

of the above discussions, the above appeals filed by the Revenue are found to be non-maintainable.

**11.** In the result, the above appeals of the Revenue are dismissed as withdrawn.

Order pronounced in the open court on the 27<sup>th</sup> day of September, 2019, in Chennai.

**Sd/-**

(एन.आर.एस. गणेशन)

**(N.R.S. GANESAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

**Sd/-**

(एस जयरामन)

**(S. JAYARAMAN)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 27<sup>th</sup> September, 2019.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF