

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

**BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA NO. 4489/MUM/2018

A.Y : 2012-13

Income Tax Officer-5(1)(1),
Mumbai. (Appellant)

vs. Allcargo Shipping Co. Pvt. Ltd.,
5th floor, Bharat Diamond Square,
CST Road, Kalina, Santa Cruz (E),
Mumbai 400 098.
PAN : AAHCA0796K (Respondent)

Appellant by : Shri S. Michael Jerald
Respondent by : Shri B.V. Jhaveri

Date of Hearing : 03/10/2019
Date of Pronouncement : 03/10/2019

ORDER

PER MAHAVIR SINGH, JUDICIAL MEMBER

This appeal of Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-10, Mumbai, [in short CIT(A)], in ITA No. CIT(A)-10/IT-5(1)(1)/145/2015-16 dated 23.04.2018. The Assessment was framed by the Income Tax Officer-5(1)(1), Mumbai (in short ITO/ AO) for the A.Y. 2012-13 vide order dated 30.03.2015 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that the AO made various additions/disallowances assessing the assessee's income at ₹21,81,640/- u/s

115JB of the Act while computing the book profit. 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 is ₹46,50,959/- 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 an 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 fall 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 03.10.2019.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Mumbai, Date : 3rd October, 2019

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "A" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai