

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Vice-President
and Shri A.T. Varkey, Judicial Member**

**I.T.A. No. 310/KOL/2018
Assessment Year: 2014-2015**

Deputy Commissioner of Income Tax,.....Appellant
Circle-7(1), Kolkata,
Aayakar Bhawan, 5th Floor,
P-7, Chowringhee Square,
Kolkata-700069

-Vs.-

M/s. Ganesh Realty & Mall Dev. Pvt. Limited,.....Respondent
Shri Ganesh Centre,
3B, A.J.C. Bose Road, Kolkata-700017
[PAN: AACCC7821N]

Appearances by:

Smt. Ranu Biswas, Addl. CIT, Sr. D.R., for the Appellant
N o n e, for the Respondent

Date of concluding the hearing : November 07, 2019

Date of pronouncing the order : November 07, 2019

O R D E R

Per Shri P.M. Jagtap, Vice-President:-

This appeal is preferred by the Revenue against the order of Id. Commissioner of Income Tax (Appeals)-3, Kolkata dated 12.12.2017 for the assessment year 2014-15.

2. It is seen, at the outset, that the tax effect on the disputed addition before us is less than Rs. 50 lacs i.e. less than the prescribed revised threshold limit in CBDT's latest Circular No17/2019 dated 08.08.2019. It will be pertinent to reproduce the relevant portion of the said Circular as follows:-

“2 . As a step toward 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:

S.No.	Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appellate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

3.1 We find that intention behind the Circular No17/2019 dated 08.08.2019 needs to be understood in the following perspective:-

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-à-vis where composite order for more than one assessment year 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, 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 assessments 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/judgment involves more than one assessee, each assessee shall be dealt with separately.”

3.2. On perusal of the Circular No. 17/2019 dated 08.08.2019 and the materials available on record, we do not see this case falling under any of the exceptions contemplated in the said circular *per se*. We also find that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. Hon'ble apex court in *Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC)* has settled the law that CBDT's circulars are very much binding on revenue authorities. We thus hold that this Revenue's appeal deserves to be

dismissed in terms of low tax effect. We make it clear that it shall very much open for the Revenue to seek necessary rectification in case it is found that the appeal involves/ operations of exception clauses in the tax effect circular as per law.

4. In the result, the appeal of the Revenue is dismissed for involving lower than the prescribed minimum tax effect.

Order pronounced in the open Court on November 07, 2019.

**Sd/-
(A.T. Varkey)
Judicial Member**

**Sd/-
(P.M. Jagtap)
Vice-President**

Kolkata, the 7th day of November, 2019

- Copies to :*
- (1) ***Deputy Commissioner of Income Tax,
Circle-7(1), Kolkata,
Aayakar Bhawan, 5th Floor, P-7, Chowringhee Square,
Kolkata-700069***
 - (2) ***M/s. Ganesh Realty & Mall Dev. Pvt. Limited,
Shri Ganesh Centre,
3B, A.J.C. Bose Road, Kolkata-700017***
 - (3) *Commissioner of Income Tax (Appeals)-3 , Kolkata,*
 - (4) *Commissioner of Income Tax, Kolkata- , Kolkata;*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.