

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

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

ITA NO. 4978/MUM/2018

A.Y : 2012-13

ACIT-27(1), Navi Mumbai.
(Appellant)

vs. M/s. Comfort Fashion
212/213, Swastik Disha,
Corporate Park, LBS Road,
Ghatkopar (W), Mumbai 400 086.
PAN : AAGFC5247H (Respondent)

Appellant by : Shri Kumar Padmapani Bora
Respondent by : None

Date of Hearing : 04/11/2019

Date of Pronouncement : 04/11/2019

ORDER

PER MAHAVIR SINGH, JUDICIAL MEMBER

This appeal of Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-24, Mumbai, [in short CIT(A)], in ITA No. CIT(A)-24/IT-25/630/ACIT-27(1)/2018-19 dated 24.05.2018. The Assessment was framed by the Asst. Commissioner of Income Tax-27(1), Mumbai (in short ITO/AO) for the A.Y. 2012-13 under section 271(1)(c) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that the AO made certain additions and assessed the assessee's income at ₹37,44,700/- u/s 143(3) of the Act. Thereafter, penalty of ₹57,846/- was imposed under Section 271(1)(c) of the Act. Aggrieved, assessee preferred appeal before the CIT(A), who deleted the same as unjustifiable. Now, aggrieved Revenue is in appeal before Tribunal. We observe that the tax effect in this appeal is ₹57,846/-, 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 could not point out whether this appeal falls under any of the exception as provided in CBDT Circular No. 3/2018. 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 4th November, 2019.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Mumbai, Date : 4th November, 2019

SSL

Copy to :

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

By Order

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