

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G" MUMBAI**

**BEFORE SHRI S. RIFAUH REHMAN (ACCOUNTANT MEMBER) AND
SHRI RAVISH SOOD (JUDICIAL MEMBER)**

**ITA Nos. 5607 to 5610/MUM/2018
C.O. Nos.207 to 209 & 223/Mum/2019
(Assessment Years: 2010-11 to 2013-14)**

Asst. Commissioner of
Income-tax, Circle-5(3)(2)
Room No.573, 5th Floor,
Aayakar Bhavan, M.K.Road,
Mumbai – 400020

M/s Supergems (India) Private
Vs. Limited,
FC/5041/42/43,
Bharat Diamonds Centre,
G-Block, BKC, Bandra (E)
Mumbai – 400 051

PAN No. AAACF4627R

Appellant

Respondent

Revenue by : Mr. V. Vinod Kumar, D.R
Assessee by : Dr. K. Shivaram, Sr. Advocate &
: Ms. Neelam Jadhav, Advocate

Date of Hearing : 28/11/2019
Date of pronouncement : 28/11/2019

ORDER

PER BENCH:

The present appeals filed by the revenue are directed against the consolidated order passed by the Commissioner of Income Tax (Appeals)-10, [for short 'CIT(A)'], Mumbai, dated 14.06.2018 for A.Ys. 2010-11 to 2013-14, which in turns arises from the respective assessment orders passed by the A.O under section 143(3) of the Income Tax Act 1961, (for short 'Act').

2. Central Board of Direct Taxes (CBDT) vide Circular No. 17/2019 dated 08.08.2019 has amended Circular No. 3/2018 dated 11.07.2018 for further enhancement of monetary limit for filing of appeals by the Department before the ITAT, High Courts and SLPs/Appeals before Supreme Court as measures for reducing litigation.

3. CBDT vide Circular No. 3/2018 dated 11.07.2018 has specified that appeals shall not be filed before the Income Tax Appellate Tribunal (ITAT) in cases where the tax effect does not exceed the

monetary limit of Rs.20,00,000/-. For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of issues against which appeal is intended to be filed. Further, 'tax effect' shall be taxes including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty order, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.

At para 13 of the above Circular, it has been mentioned that:

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

4. As a step towards further management of litigation, CBDT *vide* Circular No. 17/2019 has fixed the monetary limit for filing of appeals before ITAT at Rs.50,00,000/-.

5. In the instant appeals filed by the Department, the tax effect involved in the captioned appeals is below the monetary limit of Rs.50,00,000/- in each case. The Id. Authorized Representative (for short 'A.R') for the assessee, has filed a 'chart' in order to fortify the aforesaid factual position, which reads as under:

Sr. No.	A.Y.	ITA No.	Addition	Tax Effect
1.	2010-2011	5607/Mum/2018	1,643,685	558,689
2.	2011-2012	5608/Mum/2018	793,432	263,558
3.	2012-2013	5609/Mum/2018	1,363,814	442,489
4.	2013-2014	5610/Mum/2018	12,051,620	3,910,148

6. Per contra, the Id. Departmental Representative (for short 'D.R') submits that liberty may kindly be given to seek recall of the dismissal of appeals and their restoration, in case it can be shown that any of the said appeal was covered by the exceptions.

7. We agree with the above contentions of the Ld. DR and make it clear that the appellant shall be at liberty to point out the exceptions and we will take appropriate remedial measures in this regard.

8. With the above observations the captioned appeals filed by the revenue for A.Y(s) 2010-11 to 2013-14 are dismissed.

**C.O. Nos.207 to 209 & 223/Mum/2019
(Assessment Years: 2010-11 to 2013-14)**

9. As we have dismissed the captioned appeals filed by the revenue, for the reason, that the 'tax effect' therein involved is found to be below the monetary limit of Rs.50,00,000/- as envisaged in the CBDT Circular No. 17/2019, dated 08.08.2019, therefore, the aforesaid cross-objections arising out of the said respective appeals are also dismissed as having been rendered as infructuous.

10. Resultantly, the captioned appeals of the revenue for A.Y. 2010-11 to A.Y. 2013-14, ITA Nos. 5607 to 5610/Mum/2018, and also the C.O. Nos. 207 to 209/Mum/2019 & C.O No.223/Mum/2019 filed by the assessee, arising from the aforesaid appeals of the revenue are dismissed in terms of our aforesaid observations.

Order pronounced in the open Court on 28/11/2019.

Sd/-
(S.Rifaur Rahman)
ACCOUNTANT MEMBER

Mumbai;

Dated: 28/11/2019

Rohit, P.S.

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,
(Sr. Private Secretary)
ITAT, Mumbai