

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

Before Shri C.N.PRASAD (JUDICIAL MEMBER)

AND

Shri G. MANJUNATHA (ACCOUNTANT MEMBER)

**I.T.A No. 2666/Mum/2018
(Assessment Year: 2012-13)**

ITO, WARD-13(1)(4) Room No.216B, 2 nd Floor Aaykar Bhawan, M.K.Road Mumbai-400 020	vs	M/s Pushpadanta Developers & Farms Pvt.Ltd. 46/B, Akurli Industrial Estate Akurli Road, Kandivali(E) Mumbai-400 101 PAN: AAFCP0237Q
APPELLANT		RESPONDENT

Appellant by	Shri Kumar Padmapani Bora-(DR)
Respondent by	None

Date of hearing	26-11-2019
Date of pronouncement	26 -11-2019

ORDER

Per G MANJUNATHA, AM :

This appeal filed by the Revenue is directed against order of the CIT(A)- 21, Mumbai dated 31/01/2018 and it pertains to AY 2012-13.

2. None appeared for the assessee. We have heard the Ld. DR and perused the material available on record. During course of hearing, the Ld. DR, submitted that no doubt tax effect involved in this appeal of the revenue is less than Rs. 50 lacs and it is covered by CBDT circular No.

17/2019 dated 08/08/2019, however it appears that issue involved in this appeal is covered by exception as provided under clause (e) of subsequent circular and therefore, if required the revenue shall be allowed to file miscellaneous application to recall the order. We, find that, the CBDT, recently had issued a circular no. 3/2018 dated 11-7-2018, superseding its earlier circular no. 21/2015 and enhanced monetary limit for filing appeal before various appellate authorities and accordingly, enhanced monetary limit to Rs. 20,00,000/- for filing appeal before the Tribunal. Further, the board has issued one more circular vide circular no.17/2019 dated 08/08/2019 and enhanced monetary limit for filing appeal before appellate Tribunal to Rs. 50,00,000/-. Further, in the said circular, the CBDT had instructed its officer's to file application for withdrawal of appeal already filed or not to pursue pending appeals. We, therefore, by taking into account the CBDT circular No. 3/2018 dated 11-7-2018 and circular no.17/2019 dated 08/08/2019 and also considering the fact that tax effect involved in the present appeal is less than the amount of monetary limit fixed by the CBDT for not filing appeal, dismissed appeal filed by the revenue as not maintainable. We, further noted that the Co-ordinate bench of ITAT, Ahmadabad 'A' Bench in ITA.No. 1398/Ahd/2004, vide order dated 14/08/2019 has passed detailed order considering new circular issued by the CBDT and held

that except amendment to Para 3 of the circular No.3/2018 dated 11/07/2018, all other provisions of the circular No.03/2018 (supra) have remain intact, therefore, this circular is applicable even for pending appeals and accordingly, rejected the arguments of the revenue that the effect of the circular shall come into force from the date of issue of this circular. Therefore, considering the facts and circumstances of this case and also taken note of circulars issued by the CBDT including circular No. 17/2019 dated 08/08/2019, and also by following the decision of Co-ordinate Bench, we dismissed appeal filed by the revenue as not maintainable. However, we keep open option to the revenue to file a miscellaneous application, if necessary, in case the issues involved in the present appeal comes within 3 exceptions as provided in Para 10 of said circular and clause (e) of subsequent circular.

3. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 26th November, 2019

Sd/-

Sd/-

(C.N.Prasad)	(G Manjunatha)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, Dt : 26 -11-2019

Thirumalesh, Sr.PS

Copy to :

1. Appellant
 2. Respondent
 3. CIT(A)
 4. CIT
 5. DR
- /True copy/

By order

Sr.PS, ITAT, Mumbai