

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No.3126/M/2018
Assessment Year: 2013-14**

ITO- 17(1)(4), Room No.115, 1 st Floor, Aayakar Bhavan, Mumbai - 400020	Vs.	Late Dinta D. Doshi, (Through Legal Heir Shri Sandeep D Doshi) 2701/2702, A-Tower, Oberoi Splendor, Opp. Majas Depo, Jogeshwari (E), Mumbai - 400 060 PAN: ADCPD 6349L
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Bhavish Parekh, A.R.
Revenue by : Smt Vidisha Kalra, D.R.

Date of Hearing : 07.11.2019
Date of Pronouncement : 28.11.2019

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 19.02.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2013-14.

2. At the outset, it is noticed that the AO has made addition in capital gain for not allowing deduction of cost of improvement of Rs.60,29,445/-. The Ld. CIT(A) deleted the addition made by the AO. It is noticed that the CBDT recently has amended the CBDT Circular No. 3/2018 dated 11.07.2018 amounting vide

Circular No. 17/2019, F.No. 279/Misc.142/2007-ITJ(Pt.) dated **08.08.2019** increasing the limit for filing of appeal before Income Tax Appellate Tribunal i.e. ₹ 50 lacs in each of the case. 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.

2. 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. 17 of 2019. 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 In view of the above, this appeal of Revenue is dismissed as withdrawn in view of Circular No. **17 of 2019**.

3. Now, before us, the learned CIT Departmental Representative only requested that he want to verify whether this appeal falls under any of the explanation provided in CBDT Circular No. 3/2018. Here, we are of giving liberty to Revenue that in case, after passing of the order it comes to the notice of the Revenue that this appeal does not falls under any explanation of the CBDT by 3/18, the AO can move for recalling of the order within the prescribed time limit under section 254 of the Act. Hence, this appeal is dismissed as low tax effect covered by CBDT Circular No. 17/2019.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 28.11.2019.

**Sd/-
(Amarjit Singh)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 28.11.2019.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.