

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

BEFORE SHRI R.C.SHARMA, AM & SHRI VIKAS AWASTHY, JM

**ITA No. 3714/Mum/2016
(Assessment Year: 2010-11)**

DCIT-12(2)(1), Room No. 223, 2 nd Floor, Aayakar Bhavan, M.K. Road, Mumbai-20.	Vs.	M/s Mintkart India Pvt. Ltd. (Formerly Known as Ebay India Pvt. Ltd.), 14 th Floor, North Brock, R-Tech Park, Western Express Highway, Goregaon East, Mumbai-400063.
PAN/GIR No.AABCB 2307 H		
(Appellant)	..	(Respondent)

**C.O. No. 259/Mum/2017
(Arising out of ITA No. 3714/Mum/2016)
(Assessment Year: 2010-11)**

M/s Mintkart India Pvt. Ltd. (Formerly Known as Ebay India Pvt. Ltd.), 14 th Floor, North Brock, R-Tech Park, Western Express Highway, Goregaon East, Mumbai-400063.	Vs.	DCIT-12(2)(1), Room No. 223, 2 nd Floor, Aayakar Bhavan, M.K. Road, Mumbai-20.
PAN/GIR No. AABCB 2307 H		
(Appellant)	..	(Respondent)

Revenue by	Shri Anand Mohan (CIT-DR) & Ms. Nilu Jaggi (DR)
Assessee by	Shri Nitesh Joshi & Ms. Kirti Talreja (ARs)
Date of Hearing	09/12/2019
Date of Pronouncement	13/12/2019

आदेश / O R D E R

PER: R.C. SHARMA, A.M.

The appeal filed by the revenue and cross objection filed by the assessee are directed against the order of the Id. CIT(A)-56, Mumbai

dated 25/02/2016 for the A.Y. 2010-11 in the matter of imposition of penalty U/s 271(1)(c) of the Income Tax Act, 1961 (in short, the Act).

2. At the outset, the Id AR appearing on behalf of the assessee submitted that the penalty so deleted by the Id. CIT(A) in respect of TP adjustment so made in the quantum appeal does not exceed Rs. 50.00 lacs, therefore, in view of CBDT Circular No. 17 of 2019 dated 08.08.2019, the appeal filed by the revenue deserves to be dismissed.

3. The Id DR has fairly agreed that the tax effect in the appeal filed by the revenue is less than Rs. 50.00 lacs.

4. We have considered the rival contentions and carefully gone through the orders of the authorities below and found that the tax effect in this appeal is not exceeding the monetary limit as revised by the CBDT vide Circular dated 08.08.2019 for the purpose of filing of appeal by the department before the Income Tax Appellate Tribunal from Rs. 20,00,000/- to Rs. 50,00,000/-. For ready reference, we reproduce the CBDT Circular No. 17 of 2019 dated 08.08.2019 as under:-

Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 - Measures for reducing litigation.

Circular No. 3/2018 dated 11th July 2018 has been replaced by Circular No. 17/2019 dated 8th August 2019 to enhance Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court for reducing litigation.

<i>Appeals/SLPs in Income-tax matters</i>	<i>Monetary Limit (Rs.) (previous limit)</i>	<i>Monetary Limit (Rs.) (Revised Limit)</i>
<i>Before Appellate Tribunal</i>	<i>20,00,000</i>	<i>50,00,000</i>
<i>Before High Court</i>	<i>50,00,000</i>	<i>1,00,00,000</i>
<i>Before Supreme Court</i>	<i>1,00,00,000</i>	<i>2,00,00,000</i>

- *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, in 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. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit.*
- *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 assessment 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.*
- *In case where a composite order/ judgment involves more than one assessee, each assessee shall be dealt with separately."*

5. It is also relevant to mention here that this appeal is not covered by any of the exceptions mentioned in the said circular so as to not dismissing the same on the ground of low tax effect. Accordingly, the appeal of the department is not maintainable being monetary limit is less than/not exceeding Rs. 50,00,000/-.

6. With regard to the C.O. filed by the assessee, it was alleged that the penalty order passed by the A.O. U/s 271(1)(c) of the Act is bad in law due to non-application of mind which is evident from the notice U/s 274 r.w.s. 271(1)(c) of the Act.

7. We have gone through the orders of the authorities below, however, nothing was placed before the Bench so as to persuade us to support the ground taken in cross objection. Accordingly, we do not find any merit in the C.O. so filed by the assessee.

8. In the result, both i.e. appeal of the revenue and C.O. of the assessee are dismissed.

Order pronounced in the open court on 13th December, 2019.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 13/12/2019
*Ranjan

Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai