

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'G' BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)
And Saktijit Dey (Judicial Member)]**

ITA No. 603/Mum/2018
Assessment year: 2014-15

Deputy Commissioner of Income TaxRespondent
Central Circle 4(4), Central Range-4
Mumbai

Vs

M/s. Simplex Realty LimitedAppellant
Keshavrao Khadye Marg, Sant Gadge
Maharaj Chowk, Mahalaxmi (E),
Mumbai 400011
[PAN:AAACT4056E]

Appearances by

V. Vinod kumar *for the respondent*
Anil Lohia *for the appellant*

Date of concluding the hearing: September 18th, 2019
Date of pronouncement : December 16th, 2019

ORDER

Per Pramod Kumar, VP:

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 6th November, 2017 passed by the learned CIT(A)-52, Mumbai for the assessment year 2014-15.

2. Grievances raised by the Assessing Officer are as follows:

1. " on the facts and circumstances of the case and in law, the Learned CIT(A) erred in deleting the addition of Rs. 73,76,522/- made by the AO by applying the provision of ULC Act as against the value of Rs. 260 per sq.ft adopted by the assessee."

2. " On the facts and circumstances of the case and in law, the Learned CIT(A) erred in deleting the disallowance of interest claimed at Rs. 34,18,562/- in respect of line of credit availed from HDFC towards repayment of loans to financial institutions raised for repayment of loan to banks etc. and VRS expenditure".

3. When this appeal was called out for hearing, learned counsel for the assessee submitted that the present appeal of the Revenue needs to be dismissed on account of low tax effect in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019 whereby the monetary limits for filing the appeal by the Revenue before the Tribunal was enhanced from Rs.20 lakhs to Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeal of the Revenue is liable to be dismissed as non-maintainable as held by this Tribunal in the case of **ITO Vs. Dinesh Madhavlal Patel** in ITA No.1398/Ahd/2004 for AY 1998-99 vide a consolidated order dated 14.08.2019.

4. The learned Departmental Representative fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.

5. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position. As learned counsel rightly contends, this appeal of the Revenue is no longer maintainable in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019. The mandatory limit for cases in which Revenue can challenge the relief granted by the CIT(A) now stands enhanced

to Rs.50 lakhs. This concession granted by the Central Board of Direct Taxes (CBDT) is retrospective in effect inasmuch as it applies to all pending appeals as well. In view of the above position, the appeal of the Revenue is no longer maintainable and must be dismissed as such.

6. It is, however, made clear that on re-verification at the end of the Assessing Officer it comes out that the tax effect of more than Rs.50 lakhs is being involved in the appeal or the appeal falls within the exemption clause of the Circular, then the Revenue will be at liberty to file Miscellaneous Application to recall the Tribunal order. The application should be filed within time limit prescribed in the Act.

7. In the result, appeal of the Revenue is dismissed due to low tax effect. Pronounced in the open court today on the 16th December, 2019.

Sd/-
Saktijit Dey
(Judicial Member)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 16th of December, 2019

Nishant Verma Sr.PS

Copies to: (1) The appellant (2) The respondent
(3) CIT (4) CIT(A)
(5) DR (6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Mumbai benches, Mumbai