

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” Bench, Mumbai**

**Before Shri Manoj Kumar Aggarwal, Accountant Member
and Shri Ravish Sood, Judicial Member**

**ITA No. 3681/Mum/2018
(Assessment Year: 2005-06)**

Deputy Commissioner of
Income Tax-14(3)(1),
Room No. 455, Aayakar Bhavan,
M.K. Road,
Mumbai – 400 020

M/s Wockhardt Hospitals Ltd.
Wockhardt Towers,
Bandra Kurla Complex, Bandra (E),
Mumbai – 400 051

PAN – AAACW3342G

(Appellant)

(Respondent)

Appellant by: Shri N. Padmanaban, Sr. A.R

Respondent by: Shri Arpit Agrawal,

Date of Hearing: 08.01.2020

Date of Pronouncement: 08.01.2020

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the revenue is directed against the order passed by the Commissioner of Income Tax (Appeals)-22, [for short 'CIT(A)'], Mumbai, dated 28.02.2018 which in turns arises from the assessment order passed by the A.O under section 143(3) r.w.s 254 of the Income Tax Act 1961, (for short 'Act'), dated 31.12.2016.

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 appeal filed by the Department, the tax effect involved is below the monetary limit of Rs.50,00,000/-. As per the details filed by the Ld. A.R, the 'tax effect' involved in the present appeal works out at Rs.36,23,142/- (including surcharge + education cess). The same was brought to the notice of the Ld. Departmental Representative (DR), who did not rebut the said factual position.

6. Before us, the Ld. DR submits that liberty may kindly be given to raise, after necessary further verification, and to seek recall of the dismissal of appeal and its restoration, in case it can be shown that the appeal is 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 appeal involving tax effect of less than Rs.50,00,000/- is dismissed.

Order pronounced in the open Court on 08/01/2020.

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Mumbai;
Dated: 08/01/2020

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