

आयकर अपीलीय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / **ITA No.1208/PUN/2019**
निर्धारण वर्ष / **Assessment Year : 2009-10**

DCIT, Circle-14,
Pune.

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. Acme Foundry Flux Company,
264, Hadapsar Industrial Estate,
Near Jubilee Motors, Hadapsar,
Pune-411013.

PAN : AAEFA6352P

.....प्रत्यर्थी / Respondent

Revenue by : Shri Kaushal Kumar
Assessee by : Shri Rajeev Thakkar

सुनवाई की तारीख / Date of Hearing : 06.01.2020
घोषणा की तारीख / Date of Pronouncement : 06.01.2020

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal is filed by the Revenue against the order of the CIT(A)-9, Pune dated 16.05.2019 for the assessment year 2009-10.

2. Before me, at the outset, ld. counsel for the assessee submitted that this is a case where the additions were made based on the bogus purchases and also the additions were made based on the information received from the Sales Tax Department, Government of Maharashtra. For the tax effect in this case is around Rs.4,19,358/-. Further, ld. Counsel for the assessee submitted that the issue is now covered and decided in favour of the assessee by the decision of the Co-ordinate Bench of the Tribunal in the case of ITO vs. Pankaj Omprakash Zanzari vide ITA No.1739/PUN/2018 for

the assessment year 2010-11 dated 11.02.2019, copy of which is placed on record. Further, ld. Counsel for the assessee read out the contents of para 6 and 7 of the said order of the Tribunal (supra) in support of the case of the assessee.

3. After hearing both the sides and considering the above facts, I find the issue now stands covered by the decision of the Co-ordinate Bench of the Tribunal in the case of Pankaj Omprakash Zanzari (supra). For the sake of completeness, the relevant para 6 and 7 of the order of the Tribunal (supra) are extracted hereunder :-

“6. On the other hand, ld. AR for the assessee read out the relevant clause (e) of the Circular (supra) and submitted that the information received from the Sales Tax Department of the Maharashtra Government does not fall within the said clause (e) of the said CBDT Circular (supra). The restriction is provided only in respect of the information received from the agencies i.e. CBI nor ED nor DRI nor SFIO nor DGGI. Therefore, the restriction provided by the CBDT applies to the present case and, therefore, the appeal of the Revenue is required to be dismissed in view of the said Circular of CBDT (supra). Otherwise, there is no dispute on the fact that the tax effect on the addition made only Rs.1,56,000/- and the tax effect there is certainly much less than the limit of Rs.20 lakhs prescribed by the Circular of CBDT (supra).

7. In this case, I find that the Circular applies to the present case where Sales Tax information is involved. I agree with the argument of ld. AR (para 6 above of this order). On going through the facts of the case and the orders of the Revenue, the total tax effect involved in the present appeal is undisputedly less than Rs.20 Lakhs. The CBDT circular dated 20.08.2018 raised the monetary limit of tax effect for filing of appeal by the Department before the Tribunal to Rs.20 Lakhs. The Circular applies to the pending appeals of the Department before the Tribunal too. Thus, in view of the CBDT circular, I am of the opinion that the present appeal of the Revenue is liable to be dismissed on account of low tax effect without going into the merits of the case.”

4. Considering the above, we are of the opinion that the the tax effect involved in the present appeal is **less than** the monetary limit prescribed by the recent CBDT Circular No.17/2019 [F.No.279/Misc.142/2007-ITJ (Pt)] dated 08th August, 2019 read with Circular No.3 of 2018 dated 11.07.2018 for filing of appeals before the Tribunal by the Department. The CBDT vide circular dated 08-08-2019 (supra) has amended Para 3 of Circular No.3 of

2018 dated 11-07-2018 thereby enhancing monetary limit of tax effect from Rs.20 Lakhs to Rs.50 Lakhs for filing of appeals by the Department before the Tribunal. Thus, without going into merit of the issues raised in the appeal, in view of the CBDT Circular (supra) the present appeal of the Revenue is dismissed on account of low tax effect.

5. Before parting, I clarify here that the Revenue shall be at liberty to approach the Tribunal for restoration of appeal, with the requisite material to show that the appeal is protected by the exceptions prescribed in Para 10 of the Circular dated 11-07-2018 and its amendment dated 20-08-2018.

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

Order pronounced in the open Court on 06th day of January, 2020.

Sd/-
(D. KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 06th January, 2020.
Sujeet

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-9, Pune;
4. The Pr. CIT-6, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune