



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

**BEFORE SHRI RAJESH KUMAR, AM & SHRI AMARJIT SINGH, JM**

**ITA No.246/Mum/2019  
(Assessment Year 2018-19)**

ACIT(TDS)-2(1) 6 <sup>th</sup> Floor, Room No.615, SMT. K. G. Mittal Ayurvedic Hospital Bldg, Charni Road, (W), Mumbai-400002.	Vs.	Omkar Realtors and Developers Pvt. Ltd. Omkar House, Off Eastern Express Highway, Opp. Sion Chunabhatti Signal Sion, Mumbai-400022.
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**Cross Objection No.281/M/2019  
(Arising out of ITA No.246/Mum/2019)  
(Assessment Year 2018-19)**

Omkar Realtors and Developers Pvt. Ltd. Omkar House, Off Eastern Express Highway, Opp. Sion Chunabhatti Signal Sion, Mumbai-400022.	Vs.	ACIT(TDS)-2(1) 6 <sup>th</sup> Floor, Room No.615, SMT. K. G. Mittal Ayurvedic Hospital Bldg, Charni Road, (W), Mumbai-400002.
<b>PAN/GIR No.AAACO7919F</b>		
<b>Appellant)</b>	<b>..</b>	<b>Respondent)</b>

Revenue by	Shri Kumar Padmapani Bora (DR)
Assessee by	None
<b>Date of Hearing</b>	<b>20/01/2020</b>
<b>Date of Pronouncement</b>	<b>05/02/2020</b>

**ORDER**

**PER AMARJIT SINGH (J.M):**

The Revenue as well as assessee have filed the above mentioned appeal as well as cross-objection against the order dated 30.11.2018 passed by the Commissioner of Income Tax (Appeals)-60, Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2018-19.

**ITA. NO.246/M/2019**

2. The Revenue has filed present appeal against the order dated 30.11.2018 passed by the Commissioner of Income Tax (Appeals)-60, Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2018-19.



ITA No246/M/2019  
CO No.281/M/2019  
A.Y.2018-19

3. We have heard argument advanced by the Ld. Representative of the Department and has gone through the case carefully. During course of hearing, ld. DR for the revenue submitted that tax effect involved in this appeal filed by the revenue is less than Rs. 50 lacs and in view of latest CBDT circular No. 3/2018 dated 11-7-2018, and also modified circular No. 17/2019 dated 08/08/2019, appeal filed by the revenue is not maintainable and needs to be dismissed. The Ld. DR, further argued that, the issue involved in this appeal is appears to be covered by exception provided under clause (e) of subsequent circular and therefore, if required the revenue shall be allowed to file miscellaneous application to re-call the order. We, find that, the CBDT, recently had issued a circular no. 3/2018 dated 11-7-2018, superseding its earlier circular no. 21/2015 and enhanced monetary limit for filing appeal before various appellate authorities and accordingly, enhanced monetary limit to Rs.20,00,000/- for filing appeal before the Tribunal. Further, the board has issued one more circular vide **Circular no.17/2019 dated 08/08/2019** and enhanced monetary limit for filing appeal before appellate Tribunal to Rs. 50,00,000/-. Further, in the said circular, the CBDT had instructed its officer's to file application for withdrawal of appeal already filed or not to pursue pending appeals. We, therefore, by taking into account the CBDT circular No. 3/2018 dated 11-7-2018 and Circular no.17/2019 dated 08/08/2019 and also considering the fact that tax effect involved in the present appeal is less than the amount of monetary limit fixed by the CBDT for not filing appeal, dismissed appeal filed by the revenue as not maintainable. We, further noted that the Co-ordinate bench of ITAT, Ahmedabad 'A' Bench in ITA. No. 1398/Ahd/2004, vide order dated 14/08/2019 has passed detailed order considering new circular issued by the CBDT and held that except amendment to para 3 of the circular No.3/2018 dated 11/07/2018, all other portions of the circular No.03/2018 (supra) have remain in fact, therefore, this circular is applicable even for pending appeals and accordingly, rejected the arguments of the revenue that the effect of the circular shall come into force from the date of



ITA No246/M/2019  
CO No.281/M/2019  
A.Y.2018-19

issue of this circular. Therefore, considering the facts and circumstances of this case and also taken note of circulars issued by the CBDT including circular No. 17/2019 dated 08/08/2019, and also by following the decision of Co-ordinate Bench, we dismissed appeal filed by the revenue as not maintainable. However, we keep open option to the revenue to file a miscellaneous application, if necessary, in case the issues involved in the present appeal comes within 3 exceptions as provided in para 10 of said circular and clause (e) of subsequent circular.

**CROSS OBJECTION NO.281/M/2019**

4. The assessee has moved an application to withdraw the present cross objection to which the learned DR has no objection. Therefore, in view of the said circumstances the cross objection filed by the assessee is hereby ordered to be dismissed as withdrawn.

**5. In the result, appeal filed by the Revenue stands dismissed and cross-objection filed by the assessee stands dismissed as withdrawn.**

Order pronounced in the open court on this 05/02/2020

Sd/-

Sd/-

**(RAJESH KUMAR)**  
**ACCOUNTANT MEMBER**

**(AMARJIT SINGH)**  
**JUDICIAL MEMBER**

Mumbai; Dated 05/02/2020

Vijay Pal Singh/ Sr. PS

**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.

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**