

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G" MUMBAI**

**BEFORE SHRI C.N. PRASAD (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 461/MUM/2019
Assessment Year: 2011-12**

Income Tax Officer-31(1)(5),
Room No. 307, C-13, 3rd Floor,
BKC Bandra (E), Mumbai-51.

Vs. M/s Gold Finger Establishment
603/A Wing, Malkani Towers,
Jogeshwari West,
Mumbai-400102.

Appellant

**PAN No. AABFG3543M
Respondent**

Revenue by : Mr. V. Vinod Kumar, DR
Assessee by : None

Date of Hearing : 20/02/2020
Date of pronouncement : 24/02/2020

ORDER

PER N.K. PRADHAN, A.M.

This is an appeal filed by the Revenue. The relevant assessment year is 2011-12. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-42, Mumbai [in short 'CIT(A)'] and arises out of the penalty levied u/s 271(1)(c) of the Income Tax Act 1961, (the 'Act').

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 purchase, '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 Revenue, the tax demanded is Rs.20,42,188/- and is below the monetary limit of Rs.50,00,000/-.

6. Before us, the Ld. DR submits that liberty may kindly be given to raise, after necessary further verification, and to seek recall the dismissal of appeal and restoration of the appeal 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 by filing miscellaneous application and we will take appropriate remedial measures in this regard.

8. With the above observations, this appeal involving tax effect of less than Rs.50,00,000/- is dismissed as withdrawn.

Order pronounced in the open Court on 24/02/2020.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 24/02/2020

Rahul Sharma, Sr. P.S.

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,

(Dy./Asstt. Registrar)
ITAT, Mumbai