

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

Revenue's Appeal

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| ITA No.2758/Bang/2017 |
| Assessment year : 2013-14 |

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| The Deputy Commissioner of Income-Tax, Central Circle – 2, Mangalore. | Vs. | Shri. Vinod M. Sherlekar, Door No.4-1-103, Veenu Constructions, Ballalbagh, M. G. Road, Mangalore – 560 003. PAN : AHMPS 4701 M |
| APPELLANT | | RESPONDENT |

Assessee's C.O.

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| C. O. No.35/Bang/2018 (in ITA No.2758/Bang/2017) |
| Assessment year : 2013-14 |

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| Shri. Vinod M. Sherlekar, Mangalore – 560 003. PAN : AHMPS 4701 M | Vs. | The Deputy Commissioner of Income-Tax, Central Circle – 2, Mangalore. |
| APPELLANT | | RESPONDENT |

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| Revenue by | : | Shri. Mathivanan M, CIT (DR)(ITAT), Bengaluru |
| Assessee by | : | Shri. Pranav Krishna, Advocate |
| Date of hearing | : | 18.06.2020 |
| Date of Pronouncement | : | 26.06.2020 |

ORDER

Per Bench

This appeal is filed by the Revenue and the C.O. is filed by the assessee which are directed against the order of learned CIT(A)-2, Panaji, dated 21.01.2017 for Assessment Year 2013-14.

2. This appeal of the Revenue and C.O. of the assessee were dismissed earlier by the Tribunal order dated 16.11.2018 along with Revenue's appeal for Assessment Year 2012 – 13 and the assessee's C.O. Assessment Year 2012 – 13. These appeals of the Revenue and the C.O. of the assessee were dismissed on this basis that the appeals of the Revenue are not maintainable because the tax effect in each year of these appeals is below Rs.20 lakhs and after dismissing the appeals of the Revenue, C.O. of the assessee were dismissed as infructuous. Subsequently, the Revenue moved MP and as per the Tribunal order in MP Nos.99 and 100/Bang/2019 dated 11.10.2019, the appeal of the Revenue and C.O. of the assessee for Assessment Year 2013-14 were recalled because this was the claim of the Revenue that tax effect in this year is more than Rs.20 lakhs. Today, the appeal of the Revenue and C.O. of the assessee were heard again. In the course of hearing, it was pointed out by the Bench to the learned DR of the Revenue that now, as per the revised instruction of CBDT, the Revenue's appeal where tax effect is below Rs.50 lakhs, the appeal of the Revenue is not maintainable before Tribunal and in the present case as per Form 36 filed by the Revenue for Assessment Year 2013-14, the returned income is Rs.7,87,600/- and the assessed income is Rs.1,22,96,445/- which means that there was an addition of Rs.1,15,08,845/- . The Bench pointed out that even if the entire addition is deleted by CIT (A) and the revenue is in appeal for entire such deletion then also, the tax effect will be about Rs.35 lakhs only which is much below Rs.50 lakhs and this revised instructions are applicable to pending appeals also and therefore, at present, this appeal of the Revenue is not maintainable because of low tax effect below Rs. 50 lakhs. In reply, learned DR of the Revenue had nothing to say. His only submission was this that liberty should be granted to the Revenue to seek recall of this Tribunal order in case the AO finds that the tax effect of the Revenue's appeal is more than 50 lakhs. Learned AR of the

assessee submitted that the appeal of the Revenue should be dismissed because of low tax effect.

3. In view of the above discussion, we dismiss the appeal of the Revenue because of low tax effect with the liberty to the Revenue to seek recall of this Tribunal order as per the provisions of section 254(2) of the Income Tax Act, 1961, if the AO finds that the tax effect is more than Rs.50 lakhs. In view of the dismissal of the Revenue's appeal, the C.O. of the assessee is dismissed as infructuous.

4. In the result, Revenue's appeal and C.O. of the assessee are dismissed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(A.K. GARODIA)
Accountant Member

Bangalore,

Dated: 26th June, 2020.

/NS/*

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| 1. Appellants | 2. Respondent | 3. CIT |
| 4. CIT(A) | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.